This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

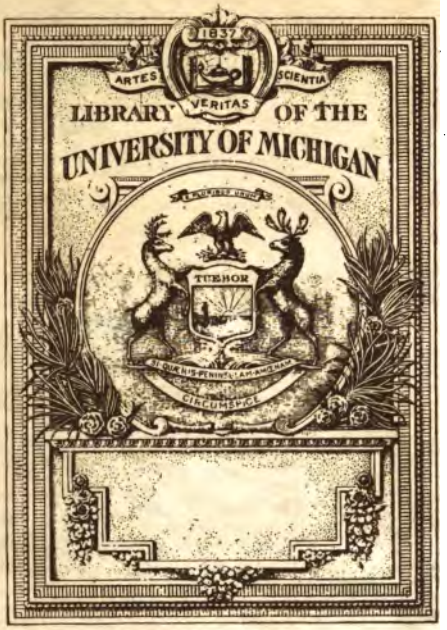
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`



THE GIFT OF
J. Herbert Russell

BX
9075
.A3
S84

COLLECTIONS
AND
OBSERVATIONS
METHODIZED
CONCERNING THE WORSHIP, DISCIPLINE, AND GOVERNMENT OF THE
CHURCH OF SCOTLAND.
IN FOUR BOOKS.

By WALTER STEUART, Esq.
OF PERDIVAN.

TO WHICH IS ADDED, THE
FORM OF PROCESS,
IN THE JUDICATORIES OF THE CHURCH OF SCOTLAND.

AS ALSO,
AN ABRIDGMENT OF THE
ACTS OF PARLIAMENT,
RELATING TO THE
CHURCH OF SCOTLAND,
FROM THE REFORMATION TO THE PRESENT TIMES.

Contra Rationem, nemo Sobrius; Contra Scripturam, nemo Christianus; Contra Ecclesiam, nemo Pacificus senserit.

ARBROATH:
PRINTED BY J. FINDLAY, AND SOLD BY ALL THE PRINCIPAL BOOK-SELLERS IN SCOTLAND.

1802.
Price in Boards, 4s. 6d.

5-25-26 gbll

To the Honourable,

Sir JOHN MAXWELL

OF

NETHER-POLLOCK,

Knight Baronet;

One of the *Senators* of the *College of Juſtice.*

My Lord,

IT was Matter of Regret, eſpecially about the beginning of our happy Revolution in the Year 1689, that the Judicatories of this Church, very much wanted fixed and eſtabliſhed Rules, for directing their Proceedings; Or, though they had them, yet they lay ſo ſcattered and hid, that Intrants to the Holy Miniſtry, and the younger Paſtors, yea even ſome among the more aged of that ſacred Order, were too much Strangers to them. The Conſideration whereof, did chiefly move me to ſet about this Work: And if my Endeavours herein, may but a little contribute to the Benefit or Service of the Office-Bearers and Guides of this Church, it is a Reward greater than I deſerve. However, to teſtify the Hon-

our and Reſpect I have for your Lordſhip, I dedicate them to You, one of Her Honourable Ruling Elders. It gives no ſmall Satisfaction to all honeſt Men who know You, that ye ſtill enjoy the ancient Heritage of Your Honourable Family, in deſpite of all the illegal Attempts made againſt both Your Excellent Father and Yourſelf, under the two Reigns before the year 1689. But above all, it is ground of Praiſe to God, that you Walk in the Steps of ſuch a Father, and thoſe of Your Pious Mother. That You may all the Days of Your Life go on, and ſerve Your Generation according to the Will of God, and in the End be gathered to Your godly Progenitors in his eternal glory, is the hope and wiſh of

My LORD,

Yonr Lordſhips very

Humble Servant,

WALTER STEUART.

THE PREFACE.

I HAVE already, in my Dedication, hinted at the deſign and Uſefulneſs of theſe *Collections*, unto the Office-bearers in this *Church*; and if there be yet among them any want of Uniformity or Exactneſs in the *Exerciſe* of the *Diſcipline*, *Worſhip* and *Government* thereof, it may not without ground be imputed to our not training up the Students of Theology *ex profeſſo* at *Univerſities*, in the knowlege of theſe as well as in her doctrine. Therefore, to prevent all grounds for fearing of ſuch Ignorance, and the bad Effects thereof; it were fit, that *Profeſſors* of *Divinity* were enjoined to give their *Scholars Leſſons* on theſe *Subjects*: and till a better compend be compoſed, theſe *Collections* are humbly offered, to be recommended by *Profeſſors* to their *Students*: for except this Subject be ſtudied and underſtood by *Miniſters* and *Elders*, their Memories may well be burdened with their Duty, but their *Judgments*, till then, ſhall ſtill remain ignorant and unſatisfied about it.

Now, as for thoſe of our *Neighbour Churches* in this and the other Iſland, who now differ from us, I hereby preſent them

with that *Form* of the *Houſe of God in Scotland*, with which their *Pious*, wiſe and learned Predeceſſors did once ſo paſſionately deſire *Uniformity*. So that when ever it ſhall pleaſe our *great and good God* to animate their *Succeſſors* with the like *Spirit*, they may fall about Building conform to this Patern. Not that I propoſe this *Work* as the *Deed* of the *Church of Scotland*, or of any *Judicatory* therein; only in ſo far as what is collected or obſerved in it, ſhall be found ſuported by their *Acts* or *Univerſal Cuſtoms*.

The Materials of theſe *Collections*, and in Particular, of what is ſaid on that *Title* concerning *Parochial Viſitations* by *Preſbyteries* were chiefly gathered from, and lay ſcattered among the *Old* and *Late Manuſcript* and *printed Acts* of *General Aſſemblies*, the *Overtures* concerning *Diſcipline*, tranſmitted by them to *Preſbyteries*, the Directory for *Worſhip* and *Church Government;* and the conſtitutions of ſome other *Churches* have been helpful to the compeleting of the compoſure. Beſide, I thought it not improper to add, here and there ſome *Hints* of *Civil Laws*, which I hope the Reader will not find unuſeful

or impertinent, seeing there are some circumstances concerning the *Worship* of *God*, and the *Government of his Church* common to Human Actions and Societies, which are to be ordered by the Light of Nature and Christian Prudence, according to the *General Rules* of the *Word*.

I have divided these *Collections* into four *Books*. The first Treats of *Church Government*, which principally concerns *Her Office-bearers* and *Judicatories*. The second is concerning the *Worship* of *God* and *Sacred Things*, with what Relates to the *Maintenance* thereof. The 3*rd* & 4th *Books* Treat of *Church Discipline*; the one concerning *Errors* and *Scandals*: and the other about the *Method* of *Reclaiming* and *Censuring* the *Erroneous* and *Scandalous*.

☞ The Reputation of Purdivan's COLLECTIONS, as the most excellent Book of the kind, has been long established. The Arrangement is natural, the Narration, in general, clear and concise, and the Selection judicious.---The merit of the Book may be inferred, from the encreasing demand for the same. Book-sellers ask the exorbitant Price of nine Shillings, or even half-a-guinea for a very indifferent Copy: and there are instances of Commissions for the same, which have remained unanswered for the space of several years. The Editor was therefore led to think, that to publish a new (he believes the 3d.) Edition of the Book would be an important Service to the Public.------To render it still more useful, he has added "The Form of

Proceſs, uſed in the Judicatories of the Church of Scotland," which is not in the firſt Edition. He has alſo, further improved it, by ſub-joining many Acts of Parliament relating to the Church of Scotland, ſome of which are of more recent date, than thoſe contained in the Collections: they are taken from a ſmall Publication printed at Edinburgh, 1795, entitled, "An Abridgment of the Acts of Parliament relating to the Church of Scotland, from the Reformation to the preſent Times." It was found upon ſtrict Inveſtigation, that the Spirit of moſt of theſe Acts was accurately expreſſed in the Collections, and in many inſtances the Acts quoted AD VERBUM. Many Acts which appeared important or intereſting have been added, though their Purport be expreſſed in the Collections, that the Reader might ſee them at greater length. Some Acts paſſed before the Abolition of Prelacy, with a few others, which have been reſcinded by ſubſequent Acts, were thought worthy of a Place, chiefly becauſe they mark the date of important Tranſactions, reſpecting the Church of Scotland. The ſame plan of Arrangement, in regard to the various Articles, has been obſerved. The Notes added, to explain thoſe Acts of Parliament which do not appear ſufficiently explicit, have been retained. Nothing of importance contained in the ſaid Abridgment has been omitted, which is not to be found in ſome Part of the Collections.

The Publication, it is preſumed, forms the moſt complete Collection of Acts and Obſervations reſpecting the Church of Scotland, that has ever yet been offered to the Public. It muſt be a very uſeful Book to Clergymen, eſpecially to thoſe who have been but little converſant in Eccleſiaſtical Courts.----It is highly worthy the attentive peruſal of every Perſon who holds a Place, even in the loweſt Judicatory of the Church.---Thoſe who have not ſome Acquaintance with the Laws and Conſtitutions of the Church, muſt be led almoſt implicitly by others, and the Office in which they might perform important Services, becomes merely nominal.

COLLECTIONS AND OBSERVATIONS *METHODIZED, &c.*

BOOK First.

TITLE I.

Of the Election and Ordination of Paſtors.

§ 1. OUR Lord Jeſus Chriſt hath inſtituted a Government and Governors Eccleſiaſtical in His Houſe, with power to meet for the order and government thereof: And to that purpoſe the Apoſtles did immediately receive the Keys from the hands of their Lord and Maſter Jeſus Chriſt, who hath, from time to time, furniſhed ſome in His Church, with gifts for government, and with commiſſion to exerciſe it when called thereto. And it is alſo agreeable to, and warranted by the word of God, that ſome others, beſides thoſe who labour in the word and doctrine, be Church-Governors to join with the Miniſters of the word, in the government of the church, and exerciſe of diſcipline: Which Office-Bearers, Reformed Churches do commonly call RULING ELDERS. It is likwiſe agreeable to the ſame Word, that the Church be governed by ſeveral Sorts of Judicatories, ſuch as Kirk-Seſſions, Preſbteries, Provincial and General Aſſemblics; all which have power, one in Subordination to the other, to call before them any perſons within their own bounds, whom the Eccleſiſtical Buſineſs, which is before them, doth concern, either as Party or Witneſs, VIDE CAP I. ACT. II. ASSEM. 1707. The Church of Scotland, by this Article denys the Independeny of Preſbyteries and Provincial Synods, as much as they do the Independency of a ſingle Congregation. But till the Churches become all of one mind in the Lord, and Civil Rulers become her Nurſing-Fathers, in their ſeveral independent kingdoms and governments; it would ſeem, till theſe good days come, the Churches are to manage their own Affairs independently upon each other: Not that this independency proceeds either from Scripture or the Nature of the Church, but from reſtraint and miſunderſtandings. *See the laſt Title of this Book*

The Intrinſical Power of the Church, the Divine Warrant and Power of Her Judicatories, Paſtors, and Elders Aſſerted.

§ 2. Paſtors, Biſhops, and Miniſters, are they who are ap-

The various Names given to Pastors, and why? Titles of Dignity in the Church favour of Popery.

pointed to particular congregations: In respect whereof, sometimes they are called Pastors, because they feed their Congregations; sometimes Bishops, because they watch over their Flocks; sometimes Ministers, because of their Service; sometimes also Presbyters or Seniors, for the gravity of manners which they ought, and are supposed to have. VIDE POLITY OF THE KIRK, CAP. 4. By the Act of Assmebly Dec. 17, 18. 1638. ART. 19. Seing the Office of Diocesan or Lordly Bishop is removed and abjured by this Kirk, it is thought fit that all Titles of Dignity, favouring more of Popery than of Christian Liberty, as Chapters with their Elections and Consecrations, Abbots, Priors, Deans, Arch-Deacons, Preaching-Deacons, Chanters, Sub-Chanters, and others, having the like title, be no more used hereafter, under pain of Church Censure.

Intimation for the Electors to meet, is made by the Presbytery, but ordinarily upon their Application. A few applying, stops the JUS DEVOLUTUM.

§ 3. When the Presbytery are well informed that a Parish, for the most part, is unanimous to elect a fit person to be their pastor: then they are to appoint one of their number to preach on a Lord's-day in the vacant congregation, and, after Forenoon's Sermon, to intimate, that Elders, Heretors, Magistrates, and Town Council (when that vacancy happens in a Burgh-Royal) and heads of families do meet at the church on such a week day (being always ten free days after the intimation) in order to the electing of a fit person to supply their vacancy. Which Order seemeth most agreeable to that Apostolical practice, Acts vi. 3. "Wherefore, Brethren, look ye out among you, seven Men of "honest report, full of the Holy Ghost, and Wisdom, whom "we may appoint over this business." And the Presbytery, for ordinary, waits till the Electors apply to them for that Intimation; which application will stop and interrupt the JUS DEVOLUTUM (of which hereafter) although it be made by a few Electors, because their meeting to apply hath no Coveener.

Who are habile Electors, who not? And what makes a Call Legal

§ 4. By the Act of Assembly, August 4th, 1649. The Church-Session is to meet and proceed to the Election, and it doth most properly belong to them as the Representatives of that Congregation, to look out for a fit person to be their Pastor. But seeing the Heretors (especially such as reside in the Parish) and Magistrates with their Town Council, in Burghs, are the most lasting as well as the most considerable heads of Families, on whose satisfaction and assistance, the comfortable Living of Ministers may much depend, the 33 Act, Sess. 2. of K. William and Q. Mary's Parliament hath enjoyned them (being Protestants) with the Elders, in subscribing of Calls to Ministers. It is to be minded, that both Session and Town-Council do subscribe personally as the Heretors do. By the above mentioned Act of Assembly, no person, under the Censure of the Kirk, is to be admitted to vote in the Election of a Minister. By the 6 Act of the 4. Sess. of K. William and Q. Mary's Parliament, all persons whosoever, giving Voice in calling of Ministers, are

at their Meeting appointed for that Effect, to swear the Oath of Alledgeance, and subscribe the same, with the Assurance.

§ 5. By that same last mentioned Act of Parliament, it is Enacted, that if Application be not made by the Elders and Heretors of the Parish, to the Presbytery, for the Call and choice of a Minister, within the space of six Months after the Vacancy, that then the Presbytery may proceed to plant a Minister TANQUAM JURE DEVOLUTO. VIDE, Sect. 3. SUB FINEM. And that forecited Act of Assembly 1649. Appoints, where the Congregation is dissatisfied or Malignant, the Presbytery to provide them with a Minister. Where a Parish, or its greater Part, is Remiss or Erroneous, and therefore will not, or delays to Call a Minister, the Presbytery, in that Case, by their power from Christ, may give a Mission or Call to a particular person, and ordain him to labour in the work of the Ministry among that people; by virtue whereof, he hath right to enjoy both Office and Benefice. By the 18 Canon CONCILII ANTIOCHENI, it is determined, *Si quis ordinatus non ierit in parochiam ad quam est ordinatus, non sua quidem culpa, sed propter populi recusationem, vel aliquam aliam causam, quæ a se non oritur is sit & honoris & muneris particeps.*

When a Presbytery may plant a Vacancy, TANQUAM JURE DEVOLUTO.

§ 6. When the day is come on which the Electors were appointed to meet, by the above-mentioned order of intimation, the Minister whom the Presbytery ordered to Moderate at the Election, having ended Sermon, and dismissed the Congregation, except these concerned, is to open the Meeting of Electors with prayer, and thereafter they proceed to vote the person to be their Minister, as they are called upon by the Session-Clerk, who is also Clerk to that meeting: which Vote being taken and carefully marked, the Moderator is to pronounce the mind of the Meeting, viz. That a Call be given to the person named: which the Clerk is to have ready drawn up to be read and signed by them in the presence of the Moderator. The Meeting of Electors having been conveened upon the Presbyteries Intimation, if either Heretors, Elders, or Town-Council be wanting or absent, their power accresceth to these present, they having all had the lawful Advertisement given them, and none of these distinct bodies has a negative upon another.

The meeting of Electors; The Election itself; The Call signed; The Power of the absent Electors accresceth to these present.

§ 7. We the Heretors, Elders, and Magistrates of the Town-Council of being destitute of a fixed Pastor, and being most assured by good information, and our own experience of the Ministerial Abilities, Piety, Literature and Prudence, as also of the suteableness to our capacities of the gifts of you Mr A. B. Preacher of the Gospel, or Minister at C. have agreed, with the Advice and Consent of the Parishioners foresaid, and Concurrence of the Reverend Presbytery of D. to Invite, Call and Intreat. LIKEAS, We by these Presents do

Form of a Call.

heartily Invite, Call and Intreat you, to undertake the Office of a Pastor among us, and the Charge of our Souls. And further, upon your accepting of this our Call, promise you all dutiful Respect, Encouragement and Obedience in the Lord. In Witness whereof, &c.

The Attestation of a Call. And what is to be done by the Electors in case they divide in voting.

§ 8. Thereafter the Moderator is to attest, that conform to the Presbyteries appointment, he did Moderate at the meeting of Electors, the Plurality or All whereof present, made choice of Mr. A. B. to be their Pastor at such time and place. Which Attestation he is to sign upon the Call, See Sect. 33.——In case there be a Parity among the Electors Votes, (that is, when they split or divide in their calling of two persons) then the Moderator must either be allowed the casting Vote, or else application must be renewed to the Presbytery to conveen the Electors a second time.

Patronages described, and how acquired at first?

§ 9. The Right of Patronage according to Strbinius his Summa Juris Canonici, is a power to present a fit person to a vacant Church Benefice; which right is acquired several ways; As, 1. When one gifts ground to build a church upon. 2. If with consent of the Bishop one build a Church. 3. If one bestows upon a Church, or Mortifies to these serving the Cure thereat, some considerable maintenance: These three ways are contained in that known verse, Patronum faciunt, Dos, Ædificatio, Fundus. The 4th way is, An immemorial custom of Presenting. 5. By a privilege and gift thereto derived from the Pope.

Patronages how considered under Prelacy.

§ 10. The Right of Patronages with us in the times of the late Prelacy became so twisted with other secular interests, that it was expresly avowed and pleaded for as a part of a Man's private Patrimony, the Rights whereof he had settled and confirmed to him and his Heirs, as these of his other Estate, by Charters under the Seals, and might lawfully sell and dispose of it, and from which he could not be excluded without injustice. These Rights were then transmitted according to the common Degrees and Rules of Blood.

The Opinion of this Church of it.

§ 11. This Church maintains that the Patron's pretended Privilege of a Negative Interest in the Call and Maintenance of Ministers, is a sinful and wronguous Usurpation, without Warrant from the word of God, destructive of the true Liberties and Interest of the Church, and most scandalously offensive to all Ranks of Christians therein. This is gathered from their Writings and Sermons, and Act of Assembly, Aug. 4. 1649.

Call presented and approved.

§ 12. The Minister who moderated the Call, and these commissioned to prosecute the same, shall next Presbytery day present the Call to them. If they find no ground to demurr upon granting their Concurrence, then they are to grant the same, which the Clerk is to signify upon the Call. But if they find

grounds to delay or refuse their approbation, in that case these are to be particulary condescended upon in their Records: Thus the Presbytery is vindicated from Arbitrary Procedure, and Parties concerned have access to make answer for themselves.

Calls prosecuted to Expectants or Ministers

§. 13. If the Call be to a Probationer within the Presbyteries bounds, then the Presbytery is to put him upon Tyrals, in order to Ordination. But if he be under the Inspection of another Presbytery, then the Presbytery to whom the Call was first presented, and with which they have concurred, is to write, or send one of their Number, together with the Parish Commissioners, and desire that Presbytery where the Probationer resides, to concurr with them in offering the Call to him, and injoyning him to repair to the Bounds to which he is called, and there submit to the ordinary Tryals, in order to Ordination. How the Call should be prosecuted to a fixed Minister, see in the following Title.

Calling and Entry of a Minister is to be directed by the Presbytery.

§ 14. It is to be remembered, that no Probationer or Ministers, is to receive any Call to a vacant Congregation, but from the Hands of the Presbytery to which they belong: For, it is by their Determination, that the Calling and Entry of a Minister is to be ordered and concluded. K. William and Q. Marie's PARL. SESS. 2. CAP. 23.

Ordination defined. No Ministers vagum.

§ 15. Ordination is the solemn Act of the Presbytery, setting a part a person to some publick Church-Office: For this see the DIRECTORY. It is agreeable to the Word of God, and very expedient that such as are to be ordained Ministers be designed to some particular Church, or other Ministerial Charge: See the *Directory and Head of the Polity of the Kirk.* As also *the 10th Act, Cap. 1st of the French Church Discipline*: Wherein they agree, that Ministers shall not be ordained, without assigning them a particular Flock.

Men's Gifts should be suited to their Posts.

§ 16. By the same Article, Ministers must be fit for the Flocks which shall be assigned unto them. And by the Act of Assembly, 1596, ratified Dec. 1638, it is determined, That because Men may be fit for some places, who are not meet for others: The Principal Places are to be provided with Men of most worthy Gifts, and none are to accept of a greater Charge than they are able to discharge. Indeed when a Minister is endowed with Prudence, and hath Love and Respect from his People, a greater charge will be easier to him than another.

Tryals of an Intrant to the Ministry. And serving of his Edict.

§ 17. On a Probationer's accepting of the Call of a Parish, which is understood to be done when he submitts himself to the Presbytery to undergo his Tryals, in order to Ordination, he is by them to be tryed, as when he was Licens'd (for which see that Title) except the Homilies and previous Catechetick Tryals. When the Presbytery is satisfied of his Tryals, they send one of their Number to preach in that Congregation, and after Fore-

noon's Sermon, to intimate to them, that the Probationer whom they have called to be their Minister, his Edict was now to be served. Which Edict, after Reading by him or the Precenter, is to be affixed by the Beddal upon the most patent Church-Door: The Tenor whereof is as followeth.

Form of an Edict.

§ 18. This Presbytery having received a Call from the Parish of to Mr. A. B. Preacher of the Gospel, to be their Minister, and finding the same orderly proceeded, and the said Mr. A. B. having undergone all the parts of his Tryal, in order to his Ordination; and the Presbytery upon the whole, judging him Qualified to be a Minister of the Gospel, and fit to be Pastor of this Congregation, having resolved to proceed, unless something occurr which may justly impede the same: And therefore do hereby give notice to all persons, especially the members of this Congregation, that if any of them have any thing to object, why the said Mr. A. B. should not be admitted Pastor here, they may repair to the Presbytery, which is to meet at the day of with Certification, that if no person object any thing that Day, the Presbytery will proceed without further delay.

The Edict Returned and Executed.

§ 19. The Presbytery meeting as it was appointed by the Preceeding, for receiving the Execution of the Edict, which ought to be ten free days after serving of the same, the Minister who was appointed to preach at serving of the Edict, is to give an account of his Diligence, and return the Edict indorsed by himself or the Precenter and Beddal. Then the Presbytery is to order their Officer three several times, at the most patent Door of the Church, to give Notice, that if there be any there who has any thing to object against the person called his being their Minister, they may come and do it to the Presbytery, with Certification, as in the Edict.

Ordination Day set, and intimated. And what Day most convenient for the Fast.

§ 20. If there be no material Impediment found, the Presbytery is to name a convenient Day within less than ten days, if it can be, for their Meeting to ordain the Candidate at the Church of the Congregation to which he is to belong. The day appointed for his Ordination, is to be intimated from the Pulpit on the Lord's Day preceeding, inviting all to be present, and telling them that they are to set apart that Day as a Fast to be by them observed with more than ordinary Supplication, for the assistance and blessing of God upon the Ordinance of Christ, and Labours of his Servant. But the Ordination Day is more proper for Thanksgiving than Fasting, and experience may confirm us herein: for we find, that on the account of some things convenient to be done that Day, another before were fitter to be observed for the Fast.

Popular Ordination demn'd, n Acts

§ 21. Our Church doth condemn any Doctrine that tends to support the People's power of ordaining their Ministers: For by the 5th Act of Assembly 1698, upon Information that a

Divine of the Church of England, had in his Sermon charged them as Corrupters of the word of God, who, to favour popular Ordinations, had cauſed that paſſage of Scripture, Acts, vi. 3. "Whom WE may appoint over this buſineſs," to be printen, "Whom YE may appoint," &c. They did unanimouſly diſclaim the above-mentioned Error of the Preſs, and did declare, they did not own any other Reading of that Text to be according to the Original, but "Whom WE pay appoint," &c.

The Ordination Sermon, and Preface to the Action.

§ 22. The Ordination Day being come conform to the Presbyteries Appointment, one of their Number preacheth; The ſubject of whoſe Sermon ſhould be concerning the Qualifications of Miniſters, and the Reciprocal Duties betwixt them and their People. The Sermon, Prayer, and Praiſes after Sermon being ended, the Miniſter from the Pulpit is to ſhew the occaſion of the Day's Meeting, and all the Steps of the Preſbyteries Procedure hitherto, with reſpect to that Affair.

The Queſtions to be anſwered by the Intrant before Impoſition of Hands, Or, His Ordination Engagements.

§ 23. Then the Miniſter calls on the Intrant, who in Face and Audience of the Congregation, is to anſwer to theſe following Queſtions, 1. If he doth believe the Scriptures of the Old and New Teſtaments, and the Truths therein contained, to be the Word of God? 2. If he doth own, and will adhere unto the Confeſſion of Faith, and the Catechiſms of this Church, and Doctrine therein contained, as being founded on, and conſonant to the Holy Scriptures? 3. If he will be Faithful and Zealous in maintaing all the Truths of the Goſpel, the Unity of the Church, and Peace thereof, againſt all Error and Schiſm whatever, notwithſtanding of what Trouble or Perſecution may happen? 4. If he do likewiſe own and will adhere to the Worſhip, Diſcipline and Goverment of this Church, as being founded on and conſonant to the Holy Scriptures? 5. If he hath been led in his deſigning the Work of the Miniſtery, by a ſingle and ſincere love to God, and aim at His Glory in the Goſpel of His Son, and not by filthy Lucre, and the motives of worldly Gain, as the great Inducement moving him to the Miniſterial Work? 6. If he hereby engage to be Diligent and Aſſiduous in Praying, Reading, Meditating, Preaching, Adminiſtring the Sacraments, Catechizing, and Exerciſing of Diſcipline, and in performing all other Miniſterial Duties towards the People committed to his Charge? 7. If he reſolves to own his Ordination to the Holy Function of the Miniſtery, and to continue in Duty, notwithſtanding of any Trouble that may ariſe in the Church hereafter, VIDE QUÆ. 3.? 8. If he will humbly and willingly ſumbit himſelf unto the Admonitions of his Brethren, and Diſcipline of this Church? LASTLY, If he will take care that he himſelf and his Family ſhall walk Unblameably, be Examples to the Flock, and Adorn the Profeſſion of the Goſpel by their Converſation?

The Place where, and the Manner how Ordained.

§ 24. In the moſt Conſpicuous Place of the Church, and near to the Pulpit, a Table and Seats being placed, where the Brethern of the Preſbytery, the Heretors and Elders of the Congregation, with the Magiſtrates and Council, when in Burghs Royal, are to ſit, together with the Intrant, ſo that all the Miniſters may conveniently give him Impoſition of Hands, and the Others may take him by the Hand, when thereunto called: The Miniſter is to come from the Pulpit to the foreſaid place, where the Intrant kneeling, (for the more decent and convenient laying on of Hands) and the Brethren ſtanding, He, as their Mouth, in their Maſter's Name and Authority, doth in and by Prayer ſet the Candidate apart (not only the Miniſter who Prays, but all the Brethren that conveniently can, laying their Hands upon his Head) to the Office of the Miniſtery, invocating God for His Bleſſing, to this Effect.

Directory for Ordination Prayer.

§ 25. Thankfully acknowledging the great mercy of God in ſending Jeſus Chriſt for the Redemption of His People, and for His Aſcenſion to the Right Hand of God the Father, and thence pouring out His Spirit, and giving Gifts to Men, Apoſtles, Evangeliſts, Prophets, Paſtors and Teachers, for the gathering and building up of His Church, and for fitting and inclining this Man to this great Work, and to intreat Him to fit him with His Holy Spirit, to give him, who in His Name is ſet apart to His Holy Service, to fulfil the Work of the Miniſtery in all things, that he may both ſave himſelf and the people committed to his Charge.

The Right Hand of Fellowſhip; He is ſaluted as Miniſter; The Concluſion of the Work

§ 26. The Prayer being ended, the Miniſter who Moderates in the Action, takes the Perſon ordained by the Right Hand, ſaying unto Him, We give unto you the Right Hand of Fellowſhip, to take part of the Miniſtery with us, and thereafter all the Miniſters of the Preſbytery. Then the Heretors, Elders, and Magiſtrates, when in Burghs, ſhould ſalute him as their Miniſter, in taking him by the Right Hand, as a Teſtimony of their Acceptance of him. Then the Miniſter returning to the Pulpit, after having had a ſhort and pertinent Exhortation, both to the Miniſter and People, he is by ſolemn Prayer to commend both Paſtor and Flock to God's Grace. Then he is to ſing a part of a Pſalm, ſuch as 132, from verſe 13, and diſmiſs the Congregation, with pronouncing the Bleſſing.

Form of an Act of Ordination & Admiſſion.

§ 27. The whilk Day the Preſbytery of met at the Kirk of conſidering that there had been a Call preſented upon the Day of unto them, from the Heretors, Elders, and Pariſhioners of the ſaid Pariſh of to Preacher of the Goſpel, to be their Miniſter. To which Call the ſaid Preſbytery of their Concurrence was ſought by the ſaid Pariſh, within the Bounds of which Preſbytery the ſaid Pariſh lyes. And with which Call the ſaid Preſbytery did con-

curr, as their Act thereanent, dated, &c. bears: LIKEAS, conform to the Acts and Conſtitutions of this Church, obſerved in the like Caſes, and at the deſire of the ſaid Pariſh, the ſaid Preſbytery did put the ſaid then only a Probationer, to all the parts of his Tryal for the Miniſtery, as is uſual, wherein he was approven to the ſatisfaction of the ſaid Preſbytery. After which, the Presbytery of did cauſe ſerve his Edict at the ſaid Church of in the due and orderly Form, on a Sabbath-day, being the Day of Whereby it was publickly intimate to the ſaid Congregation, that in caſe any perſon had any thing to object againſt the ſaid Mr. why he ſhould not be Ordained and Admitted Miniſter to the ſaid Charge of They might apply themſelves to the ſaid Preſbytery of which was to ſit at the Day of where they ſhould be fully heard; With Certification as Effeirs. And accordingly, the Brethren of the Preſbytery met at the Day foreſaid, and the Edict being returned Indorſed, and all parties concerned in the ſaid Congregation being lawfully called, and none compearing to object againſt the ſaid Ordination and Admiſſion, Therefore, the ſaid Preſbytery did determine to meet at the Kirk of upon the Day of in order to the Ordination and Admiſſion of the ſaid Mr. to the ſaid Pariſh, and oppoint Mr. Miniſter of the Goſpel at within their Bounds, to preach at the ſaid Admiſſion and Ordination. Which being accordingly performed, the Brethren met Preſbyterially, taking the whole Matter to conſideration, as ſaid is, did then and there, in due Order and all requiſite Formalities, Solemnly Ordain, Admitt, and Set apart, by Impoſition of Hands and Prayer, the ſaid Mr. in Face of the whole Congregation there preſent, to the Sacred Order of the Miniſtery, in the ſaid Congregation and Pariſh; And afterwards was received to Miniſterial Communion by the Brethren of the Miniſtery, and by the Heretors and Elders as their Miniſter. This is Extracted, &c.

§ 28. While the Church doth enjoy peace, and is at full liberty, it is very reaſonable that the above comely Order ſhould be obſerved: But in troubleſome times, and in caſes of great neceſſity, Miniſters muſt be ordained without particular relation to a Parochial Charge, otherwiſe there ſhall be no Ordination in times of perſecution. By Act 4. CAP. 1. OF THE FRENCH CHURCH DISCIPLINE, it is declared, that in ſuch extraordinary Caſes, a Miniſter of the Goſpel may be ordained by three Miniſters: But in times of peace, by no fewer than ſeven, and in caſe the Colloquy conſiſts of fewer, it ſhall call in ſome of the Neighbouring to accompliſh that Number. Ordination Sub Cruce, and Quorum for Ordination,

§ 29. You will find the old manner of electing and ordaining of Miniſters at the beginning of our Reformotion, in KNOX's FORMS prefixed to the old Pſalms, that it was formed without The Manner of Election and Or-

dination at our Reformation.

Imposition of Hands, and without a Nursery of Expectants: Which notwithstanding was an Ordination both valid and lawful, especially in that Infantile state of this Reformed Church.

Re-Ordination of Popish Clergy, and Episcopal Incumbents.

§ 30. By the 2d and 3d Articles, Cap. 1. of the French Church Discipline, the Bishops, Curats, Priests, Friars, among the Popish Clergy, turning Protestants were to be Re-ordained by Imposition of Hands. And in the sixth Session of Assembly 1690, the Moderator is allowed and authorized to declare in their Name, that they would depose no Incumbents simply for their judgment about the government of the Church, nor urge Re-ordination upon them.

The Age and Literature of those to be ordained.

§ 31. None are allowed to enter the Ministery, under the age of Twenty-five Years, except such as the Synod or Assembly judge fit for the same: See Assem. 1638. 1647. and 1704. Session 10. Other Churches have likewise very much regarded the Age of Intrants to the Ministery, for by the 14 *Canon Concilii Sexti in Trullo*, It is said, *Sanctorum Divinorumque patrum nostrorum Canon in his quoque valeat, ut Presbyter ante trigesimum annum non ordinetur, etiamsi sit homo valde dignus;* Which Canon agrees with the 11th *Concil. Neocæsear.* This Church hath likeways a special regard to the Literature of Intrants (of which more afterwards) and it is generally esteemed an essential Accomplishment, that they should have the Latin Tongue: For you will see in the Supplement to Calderwood's History, that in the Assembly 1575. It was ordained, that none should be admitted Ministers, except such as can Interpret and speak congruous Latin, unless the General Assembly for their singular Gifts and Graces, found cause to dispense therewith. Accordingly they have, both of old and of late, dispensed therewith: particularly the Assembly 1708. appointed the Presbytery of Sky, after Tryal of his other Qualifications, to ordain one to be Minister at St. Kilda, who wanted the Latin Tongue.

None having the Irish Language, to be fix'd in the Low-Lands, or these born on the north side of Tay, to be settled in the South

§ 32. By the 9th Act of Assembly 1699, Ministers and Probationers having the Irish Language, are not to be settled in the Low-Country, till the High-Land places be first provided: And by the 16th Session of the same Assembly, Presbyteries are to be censured, who settle any Probationer in the South, who was born on the North side of Tay (except it be in the case of a Call given to such Probationers by the City of Edinburgh) till they have been twelve Months in the North, without receiving a Call there; In which case they are free to come South, and accept of a Call. And any North-Country Probationer, who shall be otherwise settled, is IPSO FACTO Transportable. And no doubt the same Certification may be extended against Ministers and Probationers, having the Irish Language, that are settled in Low-Land Congregations, contrary to the foresaid Act conform to the 11th Act of Assembly 1708.

§ 33. By the 16th Act of Assembly 1697. for the more expeditious planting of the North, the Agent of the Kirk, or any person deputed by him, is authorized to prosecute Calls from the north side of Tay, and other Presbyteries there mentioned, to any Minister belonging to any Parish on the south side of Tay: But as for Parishes in the South of Scotland, they prosecute Calls thus. After the Call hath been Signed and Attested, as in Sect. 8. the Moderator is to propose to the Meeting, that they appoint some of their Number, not only to present their Call to the Presbytery, for their Approbation and Concurrence, but to prosecute the same till it be brought to an Issue: Which Commission is to be signed by the Moderator and Session-Clerk, in respect that all the Deeds of that Meeting are recorded in the Session-Books. How Calls are prosecuted from the North, and how they differ from the ordinary Method.

§ 34. By the 13th Act of Assembly 1697, upon a Letter from the Commander in Chief of His Majesty's Forces, it is recommended to the respective Kirk-Sessions where the Forces are quartered, to provide them with convenient Seats for hearing, and to inspect them as they do other Parishioners. And the Commission of the General Assembly, upon Application from the Chief Commanders, is to settle Ministers in Regiments belonging to this Kingdom: But when the Commission is not instructed to receive such Applications, then, no doubt, they are to be made to the Presbyteries. Thus we see that Ministers do not receive their Warrant to take oversight of a Regiment, as Colonels and other Officers do their Commissions from the Sovereign. The Army, by whom to be inspected and how to be fix'd with Ministers.

§ 35. By the 13 Act of Assembly 1708. it is transmitted as an Overture to Presbyteries, that when the Sufficiency of Intrants to the Holy Ministery is contested in the Presbytery that ordains them, that in this case the Presbytery shall refer the whole Affair to the respective Synods, and that the Synod shall appoint some of their Number to Examine CORAM such Intrants, and give Directions to the Presbyteries in such Cases. Differences about Intrants, how composed.

TITLE II.

Of Transportation and Admission of Ministers.

§ 1. TRansportation or Translation, is, An Authoritative loosing of a Ministers Relation to one Charge, and a making up of that same Relation betwixt him and another, done for the greater Good of the Church. This Act hath no Resemblance to the dissolving of the Relation it self betwixt a Minister and the Church, as in the Censure of Deposition: But it only resembles a Master's taking one from labouring in such a part of his Vineyard, to continue the same Work in another part thereof. Transportation described.

Calls muſt be managed and directed by the Preſbytery.

§ 2. No Miniſter is to receive or entertain a Call from another Congregation, till it come to him by his own Preſbytery. And any Man tranſporting himſelf to another Congregation, deſerves both to be looſed from his own Charge and debarred from entring into the other; The Canonicts upon this Title do thus determine *Qui enim ſua propria authoritate ad aliam ſe transfert Eccleſiam, priore relicta, & ſuam amittit & ab aliena repellitur. Vide Petri Biarnoy Examen Juridicum.*

How a Preſbytery proceeds in preſenting a Call.

§ 3. The Preſbytery having heard by word or petition theſe commiſſioned from the vacant Congregation to proſecute the Call, and after ſuſtaining their commiſſions, and finding the Call, as to what appeareth at preſent, to be orderly, and the reaſons thereof not without ſome ground and weight, they are therefore, at the ſame Diet, to deliever their Call by their Moderator, to the Miniſter deſired to be tranſported, with the reaſons thereof, and to ſummon him, APUD ACTA, to appear before the Presbytery, the time for compearance being at leaſt fifteen free Days thereafter.

The ordinary Method for citing in tranſportation.

§ 4. If the Miniſter called be abſent from the Presbytery, then the Call, with the reaſons thereof, or rather a double of both atteſted under the Clerk's Hand, are to be delivered to him by the Presbytery Officer, either perſonally, or at his Dwelling-houſe, together with a Citation for him and his Pariſh to appear, UT SUPRA.

Form of a Summons of Tranſportation.

§ 5. A. B. Moderator, &c. Forasmuch as, the Heretors, Elders, &c. of the Pariſh of have applyed to us for our Warrand and Precept to cite Mr. C. D. Miniſter at and the Pariſhioners thereof, to hear and ſee the ſaid Mr. C. D. tranſported in manner, and to the effect under-written, conform to a Call given him by the ſaid Pariſh. Herefore, We require you, that upon ſight hereof, ye paſs and lawfully Summon the ſaid Mr. C. D. perſonally, or at his Dwelling-place: And ſicklike, All and Sundry the Pariſhioners of the ſaid Pariſh of by open reading hereof, and affixing a juſt copy of the ſame at and upon the Pariſh Kirk Door, upon a Sabbath Day before Noon, immediately after Sermon and pronouncing the Bleſſing, all upon fifteen free Days warning, to compear before the ſaid Presbytery, within the Kirk of upon the day of next to come, in the Hour of Cauſe, with continuation of Days, to hear and ſee the ſaid Mr. C. D. tranſported by Sentence of the ſaid Presbytery, from the ſaid Pariſh of to the ſaid Pariſh of to ſerve in the Work of the Miniſtery thereat; or elſe to alledge a reaſonable Cauſe in the contrair. With Certification to them if they failzie, they ſhall be holden as conſenting to the ſaid Tranſportation: And the ſaid Presbytery will proceed to do therein, according as they ſhall find juſt. And this our Precept you are to Return duely Executed and Indorſate; Given at by A. B. PRESBYT. CLS.

§ 6. If the Presbytery have ground to fear that their Officer may meet with moleſtation or oppoſition, in executing of their Summons, the General Aſſembly for preventing of Deforcement and Profanation of the Sabbath, by their Act 7th 1704. Ordains the Miniſter himſelf being cited APUD ACTA by the Presbytery, or if abſent, by the Presbytery's Letter, to be preſent at the Day appointed for hearing the Cauſe; whereof the Miniſter is appointed to give Advertiſement from the Pulpit, to his Elders, Heretors, &c. In ſhort, to all that were concerned in calling him, that if any of them has a mind to defend their right to him, they may be preſent at the Presbytery on ſuch a day. For which cauſe the Miniſter is appointed to communicate unto them the Call and the reaſons thereof tranſmitted to him. But this he ought alſo to communicate in all ordinary citations, if he intends the Pariſh ſhould defend their right and poſſeſſion. As for this extraordinary way for citing a Pariſh, there was no more need for it at the beginning of our happy Revolution, when there were few Miniſters and Expectants, and many competing Vacancies. But now when the Churches are generally planted, and ſeing there is ſuch a plentiful nurſery of hopeful Probationers for ſupplying the few remaining vacancies, there is rather ground to fear that there be competing different Calls from one Pariſh, than of Calls from diſtinct Pariſhes to one man. But if it ſhould happen that neither Miniſter nor Pariſh compear, then the Prisbytery is to grant Certification againſt them, by holding them as conſenting to the deſired Tranſportation.

How, in extraordinary Caſes, a Pariſh is to be cited.

Call and Reaſons muſt be imparted to the Pariſh.

Extraordinary Citations rarely needed in a well-planted Church.

What done in the Caſe of Non-Compearance.

§ 7. By the 6th Act of Aſſembly 1694. it is recommended to vacant Pariſhes, that they do not attempt a Tranſportation, till they firſt ſeriouſly eſſay and follow other means of providing themſelves: Which is indeed the ſpeedy way to increaſe the number of Labourers in the Lord's Vineyard, and to continue others at the place appointed for their work.

Vacancies muſt firſt eſſay to call Probationers

§ 8. By the ſame Act of Aſſembly, all debates in proceſſes or Tranſportation, muſt be managed with that meekneſs and Brotherly kindneſs, as becometh parts and members of the ſame Body of Chriſt, and that they repreſent their reaſons and anſwers with perſpicuity and brevity.

How debates in Tranſportations ſhould be managed.

§ 9. And to prevent contentious Appeals in ſuch matters, it is ordained by that Act, That if both the competing Pariſhes be within the ſame Presbytery, in that caſe the Presbytery's deciſion ſhall be obeyed, or if the Pariſhes be in different Presbyteries, and both Presbyteries in the ſame Synod, in that caſe the deciſion of the Synod ſhall take effect. But with Certification, that the reſpective Judicatories appealed from, ſhall be Cenſured, if they be found to have Malverſed; and on the other hand, if any be found unneceſſarly to purſue Appeals and Complaints, they ſhall be ſeverely cenſured therefore.

Raſh Appealers in Tranſportations, when to be Cenſured,

Every Benefice should be Recorded.

§ 10. By the 5th Act of Assembly 1702. the PARISH craving Transportation is to satisfy the Judicatory, if there be a legal Stipend, and a Decreet thereof: It were to be wished that the Church were truly and better informed of the Quantity and Circumstances of every Benefice within the Nation, that so they might be directed to apply accordingly: and for that end let Presbyteries be appointed to give in an exact account of these within their bounds, that the same may be Insert and Registrate in the Books of the General Assembly, conform to the Act August 31. 1647.

How the suteableness of Men's Gifts is to be tryed, & what is meant by Eminent Congregations.

§ 11. Actual Ministes when transported are not to be tried again as was done at their Entry to the Ministery. But only the Presbytery in which the Calling Parish lies shall judge of his Gifts, from what they have heard of him in the Exercise thereof, whether they be fit and answerable for the condition and disposition of that Congregation. There are abilities requisite to make one a fit Minister for some considerable PARISHES, which are not so necessary to one in a private PARISH. Eminent Congregations are such, where are Universities, Towns and Burghs, places of noblemen's residence, or frequency of PAPISTS. VIDE ASSEM. 2. AUG. 1642. interpreting the Act 1596. concerning the Trial of Ministers, ratified December 17. 1638. and § 16. TIT. L.

Prayer is to be made before entring upon the Process, of Transportation.

§ 12. As there useth to be solemn Prayer at the fixing of a Ministerial Relation to a certain charge, so when that is changed and carryed into another; It is very fit, as is used, that light and direction should be sought in such a weighty and concerning matter to the Church, from the glorious God and blessed Head thereof, and that immediately before the Judicatory enter upon the Process.

Form of an Act of Transportation.

§ 13. The which Day anent the Summons touching and anent the Citations given to the said Mr. A. B. and his said Parishioners, to have compeared before the said Presbytery, at certain Days now by-past, with continuation of Days. The said Summons, and all Parties having Interest, being called in presence of the said Presbytery; and last of all, upon the Day and Date of thir presents, the said Pursuers compeared by their Commissioner. And the said Mr. A. B. and his Parish of being Lawfully Summoned, and they compearing. The said Presbytery having heard and considered the Call given to the said Mr. A. B. by the said Parish of and the Reasons produced by the Pursuers for Inforcing the said Transportation, and also having maturely considered the Good and Advantage of the Church in the said Transportation, and being well and ripely advised in the haill premisses, the said Presbytery (after calling upon God for Light and Direction) by their Vote have transported, and hereby transports the said Mr. A. B. from the

ſaid Pariſh of to the ſaid Pariſh of to ſerve in the Work of the Miniſtery, as their lawful Paſtor thereat, and appoints, Mr. C. D. Miniſter of to declare the ſaid Kirk of vacant upon Sabbath the Day of conform to the Acts, Practice, and Conſtitutions of this Church uſed in the like Caſes.

§ 14. If the Congregation to which the Miniſter is called doth ly in the Bounds of another Preſbytery, then the Preſbytery to which he belongs does only tranſport him, declares his Kirk vacant, and appoints him to wait for, and obey the Orders of the Preſbytery where the Charge lyes, to which he is tranſported, as to the time of his Admiſſion thereto. But if both Pariſhes ly within the Bounds of the Judicatory which Tranſports, then they appoint the time of his Admiſſion alſo. When the two Pariſhes ly in different Judicatories, How?

§ 15. If the Miniſter called had not any relation to a particular charge in the Church, then the Preſbytery hath nothing to do but admit him after the former ſteps of Call and Edict, &c. Miniſters without Flocks, how admitted.

§ 16. When a Miniſter formerly ordained, comes to be admitted Miniſter in ſuch a Congregation, the ſame is performed by the Preſbytery in face of the Congregation, with the ſame Solemnities of an Ordination: Only there is no Re-impoſition of Hands, nor any thing that is peculiar or eſſential to Ordination. And the only Queſtions needful are theſe, 1. If he does adhere unto, and promiſe in the Lord's Strength, to perform his Ordination Engagements? 2. If he hath had any indirect Hand in his own Tranſportation or Admiſſion to his Pariſh? 3. If he doth now accept of the Charge of this Pariſh, and promiſe in the Lord's Aſſiſtance to diſcharge all the parts of the Miniſterial Function among them Faithfully? The Manner of admitting Miniſters.

§ 17. The Preſbytery of being met at the Pariſh Kirk of conform to an Appointment made by the ſaid Preſbytery, dated to the Effect under-written. Taking to conſideration that the preſent Magiſtrates, Town-Council, Heretors and Elders of the ſaid Burgh, and Pariſh of had given a Call to Mr. A. B. Miniſter of the Goſpel, inviting him to be their Miniſter. And ſicklike, That the ſaid Call had been orderly preſented to the ſaid Preſbytery, and by them ſuſtained, and alſo that the ſaid Call had been accepted by the ſaid Mr. A. B. and that thereupon the ſaid Preſbytery had appointed the ſaid Mr. A. B. his Edict to be ſerved upon Sabbath the Day of And alſo appointed a Meeting of the ſaid Preſbytery for his Admiſſion, to be held this preſent Day and place; The ſaid Preſbytery being now met conform to the ſaid Appointment, and having ſeen and conſidered the ſaid Edict duely and orderly Served and Indorſed, and Returned conform to the practice of his Church, did cauſe thrice publickly call all having, or pretending to have Intereſt, to compear and propone their The Form of an Act of Admiſſion.

Objections, if they any had, againſt the ſaid Mr. A. B. his Life, Doctrine, or Qualifications, or againſt the foreſaid Call, and the procedure thereon above-mentioned, why he ſhould not be admitted lawful Miniſter of the ſaid Burgh and Pariſh: But none compeared to object thereagainſt. Likeas thereupon after Sermon preached conform to Appointment of the ſaid Preſbytery by Mr. C. D. Miniſter at The ſaid Preſbytery did in preſence of the haill Congregation there aſſembled for the time, Admit, Receive and Appoint the ſaid Mr. A. B. to be Miniſter of the foreſaid Burgh and Pariſh, according to the Order and Practice of this Church. And ſicklike, The Magiſtrates, Town-Council, Heretors and Elders of the ſaid Burgh and Pariſh, did take the ſaid Mr. A. B. by the Hand, in Teſtimony of their Receiving him to be their Miniſter. Extracted forth of the Records of the ſaid Preſbytery, by &c.

The Effect and Uſe of Ordination and Admiſſion Acts.

§ 18. Acts of Ordination and Admiſſion by the Preſbytery, are in place of Preſentation, Collation, and Inſtitution, and ſerve for them all, as a ſufficient and legal Title to the Benefice.

Impediments to Admiſſion, not always Grounds for Depoſition.

§ 19. Some Things there are which may debar a Man's Entring into the Miniſtry, and may be reaſon enough for the Church to ſhut the Door upon him, ſuch as ſome miſtakes and eſcapes offenſive in the life, that may proceed from raſhneſs, weakneſs, ignorance, or want of pruddnce: yet when once he is admitted, and entered, the like eſcapes will not be found ſufficient to depoſe and thruſt him out: For, *Multa impediunt Matrimonium contrahendum, quæ non dirimunt contractum.*

TITLE III.

Of Acts of Transportation, of Dimissions, and Missions, Colleague Ministers.

The ground for and Method of proſecuting this Act.

§ 1. WHEN a Miniſter labours under inſupportable Grievances in a Pariſh, whereby his Miniſtery is rendered un-edifying to the people and uncomfortable to himſelf; in theſe circumſtances (all other means having been eſſayed and prov'd ineffectual for Redreſſing his Grievances) the Paſtor doth apply to the Preſbytery for an Act of Tranſportability. Whereupon they appoint one of their Number to preach at that Kirk, and after Forenoon's Sermon, to advertiſe the Pariſh, being the Defenders, to appear before the Preſbytery, on ſuch a Day, and there hear and ſee their Miniſter obtain that Act in his favours, or otherways to propone Reaſons in the contrair. After hearing of both Parties, their Brother's Complaint being found Relevant and Verified, an Act of Tranſportability is granted.

§ 2. By which Act the Presbytery looseth their Brother's Relation to that Parish as fixed Minister thereof, and declares that through their Direction and Inspection, he is capable to receive a Call to any other Charge, without their being called as having any Interest: Yet in the mean time, till such an Occasion of Removal be offered, they do appoint him to exercise his Ministry in that Parish; Whereby his Right to intromet with the Benefice continueth as formerly, the Act of Transportability being occasioned thro' the Peoples Fault. But this Act will be but rarely sought in a well planted Church; And, without granting it, the Presbytery may use innocent and prudent Methods for obtaining a Call to their grieved Brother from some vacant Parish, which will as effectually answer the End as such an Act can do. Upon the whole, this Practice hath been but rare, and its Expedience, to say no more of it, is disputed by many. The Nature and Import of this Act.

§ 3. It is in the Churches Power to accept of Dimissions or not, as they find the Grounds of them to be. They use to run in these Terms. I Mr. A. B. Minister at C. for such Causes dimit my Ministery at the said Parish of C. purely and simply in the Hands of the Presbytery of D. declaring that for my part, the said Parish shall be held vacant, and that it shall be free to the Parish and Presbytery after due Intimation hereof, by Warrand of the Presbytery, to call and plant another Minister therein, And consents that this be recorded in the Presbytery Books, *ad futuram rei memoriam.* In Witness whereof I have subscribed thir presents at &c. The Causes and Stile of Dimissions.

§ 4. Which Dimissions being received by the Presbytery, they are thereupon to appoint one of their Number to preach at that Kirk, and after Fore-noon Sermon to make Intimation of the Acceptation of the Dimission, and the Presbytery's order thereon, to declare the Kirk vacant. The Execution whereof being reported to the Presbytery, and recorded by them, they are to proceed and plant that Parish, as they do other vacant Congregations. The Effect of a Dimission, upon Intimation.

§ 5. When the Vacancies are many, and the Ministers in some part of the Church so few in Number, that it exceeds the power of Classical or Provincial Assemblies, in whose Bounds they ly to supply them. Then the General Assembly who is concerned in these Bounds, as Parts of the National Church, doth appoint Ministers by way of Mission to supply these Vacancies: for this See the Acts of several late Assemblies for supplying the North, and the Instructions given to their Commissions concerning that Affair. As also, by Appointment of this Church, Ministers have been Transported, Ordained, and sent in Mission, to the Scots African and Indian Company's Colony in Caledonia in America. In what Case the National Assembly sends Ministers in Mission.

In what Cases they send to other Churches.

§ 6. Upon Petition from the moſt part of the Scottiſh Nation in the North of Ireland, in their own Name, and in Name of the reſt of the Proteſtants there to the General Aſſembly in the years 1642, 1643, and 1644. Repreſenting the Extreme Neceſſity they had of more Miniſters, and how this Church had formerly Supplied other Churches in Germany and France. The Aſſembly being willing to Sympathize with every Member of Chriſts Body, although never ſo remote much more with that Plantation which was a Branch of their own Church, they did for ſome Years ſend Miniſters in Miſſion to Supply there, as may be ſeen by the printed Acts in the Years above-named. But in Aſſembly 1690 Seſſ. 8. They Decline to ſend any Miniſters to Northumberland upon a Petition from ſome in that Country, in reſpect that theſe people do not belong to this National Church.

Churches ſhould ſend to the Heathens.

§ 7. As it is the conſtant prayer and hope of the Reformed Churches that the Kingdom or Chriſt may and ſhall be Enlarged by ſending the Goſpel to the reſt of the Heathen; So, in Teſtimony of the Sincerity of theſe Hopes and Prayers, they muſt be joined with ſuteable Endeavours for ſpreading the Goſpel among them. This Church hath not that happy Opportunity, and Invitation of Concurring Providence to forward that Work that ſome other Churches have, through our want of Foreign Plantations, and by being Injuriouſly Diſpoſſeſſed of what we had, as the 38 Minute of the Proceedings in Parliament 1701 doth complain.

when a Colleague is needful Aged and Sick Miniſters ſhould have both Maintenance and a Colleague

§ 8. When a Pariſh, though not of ſo great Extent as to require a new Erection, becometh ſo Numerous, that albeit a Miniſter's Voice may eaſily reach them all, the Seats being conveniently placed: Yet he is not able alone to diſcharge the other Miniſterial Duties, with that Exactneſs and Eaſe which Paſtors of ordinary Pariſhes may do, it is but reaſonable in that Caſe to join a Yoke-fellow with him. By the Act of Aſſembly July 30, 1641, It is declared that old Miniſters and Profeſſors of Divinity, ſhall not, by their Ceſſation from their Charge, through Age and Inability, be put from enjoying their old Maintenance and Reſpect. This doth likeways agree with the 48 Act. Cap. 1. of the French Church Diſcipline. And by the Book of Policy CHAP. 7. when Miniſters through Age, Sickneſs, or other Accidents, become unmeet to do their Office, in that caſe, their Honour ſhould remain to them, their Kirk ſhould maintain them, and others ought to be provided to do their Office. Thus they ſtill enjoy double Honour, viz. Reverence and Maintenance.

Colleagues muſt ſhare both Office & Benefice.

§ 9. When a Pariſh findeth work for two Miniſters, and they divide the ſame equally between them, nothing can be reaſonably alledged againſt ſharing of their Wages from the Pariſh accordingly; except it be ſaid, that he who gets the firſt Call

to the greater Benefice, will from that take advantage to keep poſſeſſion thereof. Which practice, however it may receive protection from ſtrict Law, yet juſtice which is mixed with equity and kindneſs condemns it: Seing his Helper or Second is to be always as fit for the the ſame charge as he, as is appointed by Aſſemby 1646, in the firſt Remedy propoſed againſt the Corruptions of the Miniſtery.

§ 10. When he who had the greater Stipend (it having been neglected at his Entry, to oblige him to divide the ſame equally with his Colleague) is now removed by Death, or otherways. Then the Pariſh is not obliged to allow the ſurviving Colleague to ſucceed to and uplift the firſt Stipend, except he be content and engage to amend his Predeceſſors manners, which if he refuſe to do, at the ſight of his Callers and the Preſbytery, then let him only enjoy the Stipend to which he was called. But the moſt effectual way and proper ſeaſon for obliging Colleagues to ſhare their Benefices, is thus to be done at their Calling and Admiſſion; Inſert in the Call, that as he is to be one of the Miniſters of ſuch a Pariſh, ſo he is to have the half of the Stipend: And let his Ordination and Admiſſion Act carry that ſame Qualification. But Colleagues of conſent may prevent this. To which the Pariſh may oblige them, How? and When?

§ 11. By the Act of Aſſembly December 17, 18. ANNO 1638, one of the Miniſters without advice of his Colleague, is not to appoint Diets of Communion nor Examination, neither to hinder his Colleague from Catechizing (to wit, from houſe to houſe) and uſing other religious Exerciſes as oft as he pleaſeth. But now the Church-Seſſion doth direct as to theſe Diets, for Communion eſpecially. Publick Miniſterial Work is to be performed by mutual Conſent and private Diligence not to be hindered.

§ 12. Colleagues are to apply themſelves to Doctrine, according to the Gifts wherein they moſt excell, and as they ſhall agree betwixt themſelves, VIDE DIRECTORY FOR PREACHING THE WORD. How they are to apply their Gifts.

TITLE IV.

Of Expectants, as alſo of Students and Burſars.

§ 1. THE Preſbytery is not only to hinder thoſe whom they know to be unfit, from entering upon their trials; but alſo they are to look out for, and ſtir up ſuch, whoſe gifts are promiſing, to ſubmit themſelves unot trial, and that albeit the one were a profeſſed Student of Theology, and the other were not. Who they are that the Preſbytery ſhould encourage to enter upon Tryals.

§ 2. Before any Preſbytery invite Students to paſs their trials, they are to be ſatisfied as to the ſoundneſs of their principles, and of their ſober, grave, prudent, and pious Behaviour. And it is appointed, that ſuch perſons ſhall produce, before Wherein the Preſbytery is to be ſatisfied before they in-

vite Students to enter upon Tryal.

the Presbyteries who admit them to trials, sufficient Testimonials from the Ministers of the Parishes where they lived, and from the legally established Presbyteries in whose bounds they resided, and also from the Professors of Divinity; See the 10th Act of Assembly 1694. As also, by an Act of Assembly thereafter, it is recommended to Presbyteries, before any be admitted to Trials, that they see their Testimonials of their passing their Course in Philosophy, and their obtaining their Degrees of Masters of Arts in some University. And by the 13th Act of Assembly 1696, Probationers that apply to Presbyteries are not only to bring sufficient Testimonials, but also a Letter of Recommendation from a person known to the Presbytery. And by the 5th Act of Assembly 1705, Testimonials from Professors of Theology, in favours of such as are to enter upon their Trials, are not to be regarded by Presbyteries, unless they bear their Knowledge of these they recommend to Trials, as to their moral and pious Carriage, as to their progress in their Studies, and their promising Parts, and of their good affection to the Government of the Church and State, and Fitness to serve the Church.

Expectants Tryals.

§ 3. The Trials of a Student, in order to his being Licensed to preach the Gospel, do consist in these parts, 1. The HOMILY, which is a Discourse upon some Text of Holy Scripture assigned unto him by the Presbytery, and delivered before them in private. 2. The EXEGESIS, which is a Discourse in Latin upon some common Head of Divinity appointed him by the Presbytery, and delivered before them, at which time also he gives in the Substance of his Discourse, comprized in a short Thesis or Doctrinal Proposition in paper, which he is to defend, at the Presbytery's next Meeting, against two or three Ministers who are appointed to Impugn his Thesis. 3. The Presbyterial EXERCISE and ADDITION: The EXERCISE gives the Coherence of the Text and Context, the Logical Division, and Explanation of the Words, clearing hard and unusual Phrases, if any be, with their true and proper meaning according to the original Language, and other parallel places of Scripture, proposing and answering any Textual Questions that occur, and then a plain and short Paraphrase upon the Text: This is ordinarly the Work of one half Hour. The ADDITION gives the Doctrinal Propsitions or Truths, which, without straining, may be deduced from the Text so explained, with Reasons, Amplifications, and pertinent Improvement and Application, as the other half Hour will allow. 4. A Lecture, or Exposition of a large portion of Scripture, ordinarily a whole Chapter. 5. A popular Sermon. These three pieces of Exercise, viz. Presbyterial Exercise, Lecture and popular Sermon, are to be in the Pulpit before the people. 6. He is to be tri-

ed in his Knowledge of the Original Languages, by interpreting a portion of the Greek New Teſtament AD APERTURAM LIBRI, and reading and expounding a portion of ſome Pſalm in Hebrew. Of his Knowledge of Sacred Chronology, Eccleſiaſtick Hiſtory, eſpecially of our own Church, anſwering Extemporay Queſtions, of the meaning of hard places of Scripture, on Heads of Divinity polemick or practical, on Caſes of Conſcience, on Church Government and Diſcipline, and is likeways to be tried as to his piety, prudence and former godly converſation, Act of Aſſembly January 30, 1698.

Some Tryals are previous to theſe.

§ 4. By the 10th Act of Aſſembly 1704, Preſbyteries are appointed to lay it on ſome of their Number to examine the Students in their own preſence upon the ſeveral Heads of Divinity, and the Government of the Church, and to know what reaſon they can give of their Faith, and if they can anſwer to ſome principal Objections of Adverſaries againſt it, and that previouſly to all other parts of their Trial. From all which it appears, that from the Beginning of Trials, to the time they are Licensed to preach the Goſpel as Probationers for the Miniſtery, they are a full half Year exerciſed in order thereto, allowing the ordinary Meetings for Presbyteries to be once a monh. Which time for Trials will yet be longer, if we conſider the 13th Act of Aſſembly 1708, appointing private Trials concerning his Senſe, and Experience of Religion, yet previous to all theſe mentioned.

Expectants & Students Names to be Recorded in the Aſſembly Books.

§ 5. By the 3d Act of Aſſembly 1697, the Commiſſioners from the ſeveral Presbyteries within this Church, are to bring in an Account to the General Aſſembly yearly, of all Expectants or Probationers for the Miniſtery. As alſo, of all Students who attend Leſſons of Theology in Univerſities, and perform the Exerciſes enjoined them there, that their Names may be read in open Aſſembly and Recorded in their Regiſter. Which is a mean to bind all Candidates for the Miniſtery to a circumſpect Walk, that the Church may receive good Impreſſions of them.

Form of an Act Licenſing one to preach the Goſpel, and his Teſtimonial, & Recommendation.

§ 6. At the Day of The which Day the Presbytery of taking to their Conſideration, that in Obedience to the ſeveral Acts of General Aſſemblies made anent Tryals in order to Preaching, they had upon the Day of Received ſufficient Teſtimonials in favours of Mr. A. B. Student in Divinity, and that thereupon they had appointed ſome of their Number to make Search and Enquiry into the Literature and Behavour of him the ſaid Mr. A. B. Which Brethren having upon the Day of Reported, that according to the Appointment foreſaid, they had privately taken Tryal of his Knowledge in Divinity, and of what Senſe and Impreſſion he had of Religion upon his own Soul,

and that they had Cauſe from what they found in the foreſaid Tryal, to judge him fit to be Received and Entered upon publick Tryals in order to his being Licensed. Whereupon they, the ſaid Presbytery, had admitted the ſaid Mr. A. B. upon Probationary Tryals, who having in all the uſual parts thereof, at divers times thereafter, acquitted himſelf to their Satisfaction and Appobation; Therefore they did and hereby do LICENSE the ſaid Mr. A. B. to preach the Goſpel of Chriſt as a Probationer for the Miniſtery within their Bounds, he having in their preſence undertaken the uſual Engagements appointed by the Acts of this Church. Extracted, &c. NOTA, Theſe Engagements are here omitted, BREVITATIS CAUSA. VIDE § SEQ. At his Removal out of the Bounds of the Presbytery where he was Licensed, his Teſtimonial is in this Form. At the Day of The which Day, the Presbytery of do Teſtify and Declare, that Mr. A. B. Preacher of the Goſpel, has, ſince his being Licensed by them, preached ſeveral times both at their Appointment and the Deſire of particular Brethren within the Bounds, to their Satisfaction, and that his Carriage, ſo far as they know, hath ſince that time, been pious, exemplary and edifying as became a Preacher of the Goſpel, and that he hath been obſequious to all their Appointments. Therefore they do by theſe Preſents Recommend the ſaid Mr. A. B. accordingly to any Presbytery where GOD in His Providence ſhall caſt his Lot, for all due and ſuitable Encouragement from them.——Extracted, &c.

A Probationer's Engagements when Licenſed.

§ 7. By the 10th Act of Aſſembly 1694, It is Appointed, That when Perſons are firſt Licenſed to Preach, they ſhall oblige themſelves to preach only within the Bounds, or by the Direction of that Preſbytery which did Licenſe them, and they ſhall alſo by Promiſe and Supplication Engage themſelves that they ſhall be ſubject to the ſaid Preſbytery, or to any other Church Judicatory, where in Providence they ſhall have their Abode, and that they ſhall follow no Diviſive Courſe; which Engagement is to be Inſert in the Body of their Licence, VID. §. 11. TIT. 8. LIB. 3.

What Preſbyteries or Pariſhes a Probationer may preach in, and when to renew his Engagements.

§ 8. By that ſame Act it is Appointed, That when they are Removing from that Preſbytery which did Licenſe them, they ſhall carry with them an Extract of their Licenſe, and a Teſtimonial of their Carriage, which they are to produce to ſome Preſbytery Conſtitute by the Legal Eſtabliſhment, or at leaſt to ſome Miniſter therein, before they preach within that Bounds; Which Miniſter is not to Imploy them, except in his own Pulpit, till he give Notice thereof to the Preſbytery at their next Meeting. And they are then to require the ſame Subjection and orderly Carriage from them, during their Abode in that Bounds, to which they were Engaged to the Preſbytery by which they were Licenſed.

§ 9. And in case any Probationers shall have their Licences Suspended or Recalled, for Error in Doctrine or Malverse in Converſation, then Intimation ſhall be made thereof by the Judicatory which hath ſo Cenſured them, to the Neighbouring Judicatories, or where they ſhall underſtand the ſaid Probationers are, that ſo none may Imploy them to preach. How Sentences against them should be Intimated.

§ 10. And laſtly, By the ſame Act it is Declared that Probationers are not to be eſteemed by themſelves, or others to preach by virtue of any paſtoral Office, but only to make way for their being Called unto a paſtoral Charge. They have no Paſtoral Office.

§ 11. It is the lauadable practice of ſome Preſbyteries to Licenſe no Probationers till they acquaint their Neighbouring Preſbyteries, that ſuch Perſons are paſſing their Trials before them. And upon a Return that they know nothing that ſhould Impede their being Licenſed, then they proceed. Before Licencing, other Preſbyteries acquainted.

§ 12. Every Preſbytery conſiſting of Twelve Miniſters, is Appointed to Maintain a Burſar (that is, One out of the Common Purſe) and where the Number is fewer than Twelve, they ſhall be joined to another Preſbytery. Vide Act of Aſſembly, Auguſt, 7. 1641. Each Preſbytery muſt maintain a Burſar.

§ 13. Every Burſar muſt have Yearly payed him an Hundred Pounds Scots at leaſt, the Fund whereof ought to be the Penalties exacted of Delinquents, and Scandalous Perſons by the Civil Magiſtrate, and by him delivered to the Kirk-Seſſions. But if that Fail, then the Kirk-Boxes in theſe Preſbyteries are to be proportionally Stinted by them according to the Number of Communicants in each Pariſh, which Maintenance of an Hundred Pounds is to be Collected by the Moderator, of the which the ſeveral Synods are to take Account, and their Books are to bear the Report thereof to the General-Aſſembly. It is alſo Appointed that the Abode of Burſars at Schools of Divinity exceed not Four Years. Vide Act of Aſſembly, Feb. 7. 1645. The Quantity, Fund, Collection and Continuance of a Burſar's Maintenance.

§ 14. By the ſame Act, Burſars of Theology are Appointed to bring with them Yearly from the Univerſities, Teſtimonials of their Good Behaviour and Proficiency: And that none be choſen for Burſars by Preſbyteries, but ſuch as are of Good Report, and have paſt their Courſe of Philoſophy, and their Qualifications are to be Tryed likeways before they go to Univerſities, conform to Acts of Aſſemblies 1647, 48, and 49. And by the 5th Act of Aſſembly 1705, it is Ordained, that in no Pariſh the Miniſter Recommend Youth to be Taught in Latin upon Charity in any Grammar-School, but ſuch as be Dexterous in Reading, and can Write, and ſuch as he judges to be of Virtuous Inclinations, which Trial is to be in preſence of ſome Elders, and no School-Maſters are to Teach any upon Charity, but upon ſuch Recommendations. Item, It is Or- Qualifications of Burſars, and how they are to be Tryed.

dained that Presbyteries appoint a Committee of their Number Yearly to Examine Poor Scholars in Grammar-Schools, that so none of them be suffered to proceed to Colleges with an Eye to Bursaries, but such as are of Good Behaviour, and Proficients in the Latin: And Ministers are to Recommend none to Bursaries not so Qualified: And Masters of Colleges are to Lauriate no Bursars, but upon clear Evidence of sufficient Learning and Good Behaviour after Strict Examination.

Poor Students tho' not Bursars are to be inspected by Presbyteries

§ 15. For the better Breeding of Young Men to the Ministry, who are not able to Maintain themselves at Universities (nor perhaps find that Favour as to get Bursaries) Presbyteries where such reside are appointed to Direct their Studies. Act June 18. Assembly, 1646.

Bursars having the Irish Language Encouraged.

§ 16. In Order to the Advancement and Increase of the Knowledge of GOD in the High-lands, by the Act of Assembly 1701. It is Recommended to several Synods to Maintain a Bursar of Theology, having the Irish Language, out of their own Purses. And by the 13th Act of Assembly 1704. In respect the Low-land Presbyteries by south Tay are Competently Planted, and that the promoting of Knowledge in the Highlands is of Common Concern: Therefore it is Appointed that the one half of all Bursaries of the Presbyteries by south Tay be bestowed on Students having the Irish, at least the Half thereof; Which Act is to continue at least for Four Years, and longer, if there shall be found need: And by the 5th Act of Assembly 1707. Contributions, and Erecting of Societies for maintaining poor Scholars, are to be encouraged by Judicatories and the Commissions of Assemblies.

None must leave over the Greek Class, but finish the four Years Course before Degrees

§ 17. By the Act of Assembly Feb. 7th 1645. It is Appointed that notwithstanding of any progress, any may pretend to have made privately in their Studies, yet in the College they shall not at first enter to any higher Class than that wherein the Greek Language is taught, and being entered, they shall proceed Orderly through the rest of the Classes, until they finish the Ordinary Course of Four Years; And otherways that none be admitted to the Degree of Master of Arts, unless the Faculty of Arts find him to be of extraordinary Learning.

Nor doth any advance to any higher Class, till his profiting in the lower does appear

§ 18. By that same Act it is appointed, that none be allowed to enter the Greek Class, but such who are found can make congruous THEMES in Latin, and are not to be promoted to any higher Class, till it be found that they understand what was taught them in the Lower. The Annual Examination of Students at the first sitting down of Colleges, looketh as if something like this were intended: But the best Effects that such Examinations do ordinarly now produce, may be the doing of Justice upon some poor ignorant Students in keeping them back from advancing to Higher Classes. And as for the Rest who pay the Masters their ordinary Dues, they are only

thereby Excited to be at more than Ordinary Pains for some few Days. It is a piece of Juſtice done to the World, that thoſe who are to Gain and Live by their Learning, ſhould not, under that pretence, be ſuffered to impoſe upon Men by Ignorance or Craft. For, what a great deal of Hurt are Immoral, Ignorant, Crafty and Idle Scholars capable to work in their Generations? Let them be Directed and Obliged to ſerve their Time in ſome Honeſt Vocation, where the want of ſo much Knowledge cannot do ſo great prejudice; Otherways, it is highly Reaſonable they ſhould Study to have Accompliſhments, and a Converſation ſuitable to the Profeſſion and Character they bear in the World.

Such as remove to other Colleges, muſt carry Teſtimonials with them.

§ 19. By that ſame Act, none who have entered to one College ſhould be admitted to any Claſs in another, than that wherein he was, or ſhould have been in the College from whence he came; Nor be admitted without Teſtimonials from the former Maſters, both concerning his Literature and dutiful Behaviour; that ſo theſe who have been Rejected or Removed as Unworthy or Ignorant by one College, may not be Admitted or Promoted in another. And in order to the better Education of Young Men for the Miniſtry, By the 22d Act of Aſſembly 1696, it is Recommended to Profeſſors of Divinity that they Require of ſuch Students, as they Imploy in any Exerciſes, Teſtimonials from Univerſities where they have Studied, and the Places where they have Lived.

Who are to be imployed by profeſſors in Theological Exerciſes.

Univerſities muſt inſtruct on the ſabbath day

§ 20. By the Act of Aſſembly Auguſt ULT. 1647, it is Recommended to Univerſities to take an Account of all their Scholars on the Sabbath Day, of the Sermons, and of their Leſſons on the Catechiſm.

TITLE V.

Of School-Maſters, and Inſtructors of Youth.

Qualifications of ſuch as bear Office in Schoo's by Acts of Parliament, & Aſſembly.

§ 1. BY the 17th Act of K. W. & Q. Mary's Parliament, It is Ordained, that no Profeſſors, Principals, Regents, Maſters or others, bearing Office in any Univerſity, College, or School, within this Kingdom, be either admitted or allowed to continue in the Exerciſe of their ſaid Functions, but ſuch as do acknowledge and profeſs, and ſhall ſubſcribe to the Confeſſion of Faith, and ſwear the Oath of Alledgeance (and now they muſt ſubſcribe the ſame with the Aſſurance, VIDE 6 Act PARL. 1693.) and withal ſhall be found of a pious, loyal, and Peaceable Converſation, and of good and ſufficient Literature and Abilities for their reſpective employments, and ſubmitting unto the Government of the Church now ſettled by Law. And by the 10th Act of Aſſembly 1700, all Preſbyteries are appointed to take ſpecial, particular and exact Notice

of all School-Masters, Chaplains, Governors, and Pedagogues of Youth within their respective Bounds, and oblige them to subscribe the Confession of Faith, and in case of continued Negligence (after Admonition) Error or Immorality, or not being careful to Educate these under their Charge in the Protestant Reformed Religion; The Presbytery with respect to School-Masters, is to apply to the Civil Magistrates of Burghs, and Heretors in Land-ward: And with respect to Governors, Chaplains and Pedagogues, to their Masters, for removing such persons from these Offices: And if this, be not Remedied by them, that the Presbytery with respect to School-Masters, apply to the Commission of Parliament for Visitation of Schools and Colleges: And it is appointed, that an account be given in every half Year to the Presbytery, by Ministers, what School-Masters, Chaplains, Governors and Pedagogues are in their respective Parishes. And by the 13th Act of Assembly 1706 such as have power of settling School-Masters, are to prefer thereto men who have past their Course at Colleges, and have taken their Degrees, before others who have not, CÆTERIS PARIBUS.

The Work of a Land-ward School-Master.

§ 2. By the Act of Assembly Dec. 17, 18. 1638, Presbyteries are to see that Schools in Land-ward Parishes be settled with able men, for the charge of Teaching the Youth, publick Reading and Precenting of the Psalm, and the Catechizing of the common People. Which Teaching of the Youth I understand to be, Teaching to Read, Write, and know the Principles of Religion, according to the Act of Assembly Aug. 3. 1642, and by that same Act every Presbytery Seat and Burgh is to have a Grammar-School.

TITLE VI.

Of Doctors, and Professors of Theology.

The Sentiments of this Church about the Doctor's Office. He is no Pastor as such.

§ 1. ACCORDING to the fifth Chapter of the Policy of the Kirk in the General Assembly 1581, the Office of the Doctor or Catechizer, is one of the two ordinary and perpetual Functions that travel in the word. He is to open up the mind of the Spirit of God simply, without such applications as the Ministers use: they are such properly who teach in Schools, Colleges, or Universities. But to preach unto the people, to administer the Sacraments, and to celebrate Marriage, do not pertain to him, except he be called and ordained thereto. If the Pastor be qualified for it, he may perform all the parts of the Doctor's Office, that being included in the Pastoral. By the 2d Article, Cap. 11. of the Discipline of the French Church, a Doctor in the Church cannot preach nor administer the Sacraments, unless he be both Doctor and Minister. And

when the General Assembly, February 10. 1645, ratifies the propositions sent to them from the Assembly of Divines at Westminster, concerning Church-Government, and Ordination of Ministers. They expresly provide, that the present Ratification shall be noways prejudicial to the further discussion and examination of one of the Articles or Propositions, which holds forth, that the Doctor or Teacher hath power of the Administration of Sacraments, as well as the Pastor.

§ 2. Though the Office of a Deacon is included in the Office of a Ruling Elder, yet it is fit that some be appointed Deacons, distinct from that of the Elder: So, albeit the Office of a Doctor be included in that of the Pastor, yet it were very fit that some not in the sacred order of the Ministery were ordained and set a part to Teach and Catechize the people, especially in large and incommodious Parishes, (See § 3. of the preceeding Title) as well as in Schools and Colleges.

Catechists or Doctors, should Teach in Colleges & and in large Parishes.

§ 3. By the Act of Assembly February 13. 1645, for encouragement to Scholars for professions in Schools, it is recommended to Synods, to try who within their bounds, most probably may be for a profession in the Schools, and report their Names to the General Assembly, that they may be stirred up, and encouraged by them to frame their Studies for such Places. This cumulative power doth noways prejudice or hinder the Faculty of an University (which hath power and right to Elect) from doing of the same. It were to be wished, that this custom of Synods reporting to General Assemblies the Names of such as are fit to be Professors, were again revived, and more exactly practised; for it would prevent the Transporting of Ministers to be only Teachers or Masters in Universities, which is an appointing of him to exercise the Office of a Doctor, and dispensing with him from preaching of the Word and administerating of the Sacraments: Which Dispensation, or the loosing of which Tie, if it be a favour, it can never be imposed upon any Pastor without his own consent; but if it be a punishment, it can be inflicted upon none without their fault: It is liker a Commutation of Offices than a Transportation: or if he still continue to be a Pastor, his pastoral talent is thereby but much hid in a napkine; By the 3d Article, 2d Chap. of the French Church Discipline, Doctors and Professors of Divinity shall be Elected and Tried by the Synods of the Province where the Academies are.

Synods are to report to the Assembly the names of Scholars fit to be Professors. No Pastor can be compelled to give himself to teaching and leave his Pastoral Charge.

§ 4. By the 5th Chap. of the Policy of the Kirk of Scotland, the Doctor being an Elder, is to assist the Pastor in the Government of the Kirk. And by the Act of Assembly Aug. 4. 1643, Professors of Theology cannot be elected Commissioners to General Assemblies, except they be Ministers: So that, as Doctors they are not Ruling Elders, and the Assembly con-

The Doctor as such no Ruling Elder, nor as meer doctor can be Member of Assemblies.

fists of none but Pastors and Elders: Therefore as Doctors they cannot be members of Church Judicatories for Government and Ruling, VIDE § 1. HUJ. TIT.

Professors Dictates may be reviewed by General Assemblies.

§ 5. By the Act of Assembly June 18. 1646, Professors of Divinity are desired to present their Dictates to the next General Assembly: But they declined at that time to make any Act about it for the future, till furter consideration.

TITLE VII.

Of Ruling Elders.

Why called Ruling Elders.

§ 1. HE is called a Ruling Elder, because to Rule and Govern the Church, is the chief part of his Charge and Employment therein; and albeit he may Act as a Deacon, yet his prineipal business is to Rule well, and it belongs not to him to Preach or Teach.

Election of Elders.

§ 2. If there be a total Vacancy of Ministers and Elders in a Parish, the Presbytery should intimate to the Heads of Families, to meet with some of their Number on an appointed day, and then name Elders. But if the Masters of Families do not keep the appointment, then the Presbytery are to nominate and choose the persons to be Elders. In case the Vacancy be not Total, then the Minister and Elders do choose such as should be added to their number from among the Heads of Families, and the fittest and most experienced of them may be supposed to be among the Deacons, VID. Assembly August 1. 1642.

Their Trial.

§ 3. The Trial is to be by the Minister and Eldership of the Congregation; or, in case of the want of these, by the Presbytery, and they are to be tried both with respect to their conversation, and also of their knowledge in the principles of Religion, and their ability and prudence for Government.

Serving of their Edict.

§ 4. Before the Ordination of Elders, the Names of the Persons nominated and tried, in order thereto, are to be publicly intimate to the Congregation; whereby all are Required, in case of their having any Objection, that is Relevant and True against their Ordination, to represent the same to the Kirk-Session.

Ordination of Elders.

§ 5. Their Ordination is to be by the Minister of the Congregation; or, by one from the Presbytery in the case above supposed, in presence of the Congregation, upon a Lord's Day after Sermon is ended in the Fore-noon: At which time, the Minister calling upon the Persons chosen to be Elders, they are to be interrogat concerning their Orthodoxy, and to be taken solemnly engaged, to adhere to, and maintain the doctorine, worship, discipline and government of the Church; and to lay themselves forth, by their office and example, to suppress vice, cherish Piety, and exercise discipline faithfully and diligently.

Then the Elders choſen, ſtill ſtanding up, the Miniſter is next, by ſolemn prayer, to ſet them apart, IN VERBIS DE PRÆSENTI. After prayer the Miniſter is to exhort both Elders and people to their reſpective duties.

§ 6. In caſe an Elder change his reſidence by removing into another Congregation, if the Seſſion, upon a ſavory report concerning him, ſhall think fit to add him to their Number; Then, if he be content to accept, his Edict is to be ſerved, and he is thereafter admitted into the Seſſion, his Qualifications having been tried already in the Congregation where he was Ordained. Their Admiſſion.

§ 7. As the Paſtors and Doctors ſhould be diligent in Teaching, and ſowing the word of God, ſo the Elders ſhould be careful, in ſeeking after the fruit thereof among the people's lives. They are to aſſiſt the Paſtor in the Examination of them that come to the Lord's Table, and in viſiting the Sick. They ſhould cauſe the Acts of Aſſemblies to be obeyed. They ſhould be be diligent in admoniſhing all men of their duty, according to the Rules of the Evangel. And things that they cannot correct by private admonition, they ſhould bring to the Elderſhip. See the Heads of the Policy of the Kirk. Duties of Elders more private.

§ 8. By the Eccleſiaſtic remedies againſt Profaneneſs, enacted in the Aſſembly Auguſt 10. 1648, it is appointed, that every Elder have a certain Bounds aſſigned him, that he may viſit the ſame, every month at leaſt, and to report to the Seſſion what Scandals and abuſes are therein, or what perſons have entered without Teſtimonials: And it were fit, that then ſome time were ſet apart for Prayer; And it were alſo fit that Elders ſhould always keep an exact Liſt of all examinable perſons within their Quarters, and thereunto put Marks to diſtinguiſh Communicants from the Ignorant and Scandalous, and the Poor and Indigent from ſuch as need not. They have particular Bounds of the Pariſh called Quarters in Scotland aſſigned them to viſit monthly, & report

§ 9. The Duties of Elders which are more public are theſe which lie upon them in the Aſſemblies of the Church; In which, Ruling Elders have Right to Reaſon and Vote in all Matters coming before them, even as Miniſters have: For to General Aſſemblies, their Commiſſions bear them to the ſame power with Paſtors. Howbeit, by the practice of our Church, the Execution of ſome Degrees of the Church doth belong to the Paſtors only; Such as the Impoſition of Hands, pronouncing the Sentences of Excommunication and Abſolution, the receiving of Penitents, the Intimation of Sentences and Cenſures about Miniſters, and ſuch like. In ſhort, the Elder is to ſpeak nothing to the Church from the Pulpit. Their more publick Duties, yet reſtricted.

§ 10. The Number of Elders in every Congregation is to be more or leſs according to the Number of people therein, and plenty of fit and qualified perſons for that Charge. And when they are once lawfully called to the Office, they may not leave Number of Elders, and their Continuance.

it again, while their Gifts and Abilities for discharging the same do continue. Albeit in some Congregations, such a number of Elders may be chosen, so as one part of them may relieve another, for a reasonable time, from the Burden and Exercise of their Office, as was done among the Levites under the Law. See the Book of Policy, Chap. 6.

TITLE VIII.

Of Deacons.

How the Word is taken; The Office described The Session Censurable that wants them

§ 1. THE Word Deacon is sometimes largely taken for all that bear Office in the Ministery, and Spiritual Function in the Church: But commonly it is taken for that ordinary and perpetual Ecclesiastical Office in the Kirk of Christ, to whom the Collection and Distribution of the Alms of the Faithful, and Ecclesiastical Goods do belong, VID. CHAP. 8. of the Policy of the Kirk. Whence it follows, that, seing this Office is of Divine Institution, it is an Unwarrantable Omission in some Congregations, that either they put no Difference betwixt Elders and Deacons, or else they Neglect to appoint any to the Office of a Deacon. VIDE § 2. TIT. 6. I do not think it Reasonable or very Consistent, for any to be Zealous against adding to the Kinds of Office-Bearers of CHRIST'S appointment, while, they are Active in, or Connive at the Diminution of any of them. If it be said, the Elder is a Deacon: I Answer, Albeit the Pastor includes the Office of Doctor, Elder, and Deacon, yet seeing these are of Divine Institution, Reverence is in so far due unto it as to set up these distinct Offices: As nothing should be added to the divine Institution, upon pretence of imagined decency or order in the Invention, so nothing ought to be diminished therefrom, upon pretence that some things in the institution are needless or superfluous.

Their Election, &c. the same with Elders

§ 2. As to what Respects the Election, Trial, Ordination, Admission, Continuance, and Number of Deacons, the same Method may be used about them, as was done concerning Elders, MUTATIS MUTANDIS.

Duties of Deacons

§ 3. The Duties of Deacons may be reduced to these Heads, Collected from Mr. Guthrie's Treatise of Elders and Deacons, and the Heads of the Policy of the Kirk. 1. That they take exact Notice of the Poor, and that they timeously make their Case known to the Session, to the End, their Straits may be Relieved, and so their breaking out into Begging may be prevented. 2. They are to Collect and Receive that Supply for the Poor, which the Members of that Congregation, or Strangers shall be inclined to Offer. 3. That the Money so Received be Faithfully delivered to the Session, according to whose Judgement and appointment, the Deacons are to distribute the

Church-Goods: In which Matters they have a Decisive Vote with the Elders: But in other Cases their opinion is only Consultative, and they may be always present. 4. That they take care of Orphans and Idiots, and such as want Knowledge and Ability to dispose of, and order the things that concern their Food and Raiment. 5. They are to take care that what belongs to the Poor be not Dilapidated, or Misapplied. 6. They are to acquaint the Ministers and Elders of the Sick within their Quarters, that so they may be Visited, and, if Need be, Supplied. 7. By the 9th Chap. of the Policy of the Kirk, Deacons were not only to Collect and Distribute the Ordinary Alms, but all the Church-Goods, Tiends, &c. and uplift and pay to the Ministers their Stipends. This were indeed a Work proper for their Office, an Ease to the Minister, and would prevent much Noise and Offence that is raised when charges to make Payment are given, either at their own Instance, or in Name of their Assignees or Factors. 8. They may be Employed to provide the Elements, to carry them, and serve the Communicants at the LORDS Table.

TITLE IX.

Of Moderators of Church-Judicatories.

§ 1. SEING the Moderator is frequently called to Exercise the Power of Order, as Solemn publick Ecclesiastic Prayer, at least Twice every Session, viz. at its first Opening, and then at its Closing; Authoritative Exhortation, Rebuke, Direction; it is Convenient the Moderator be always a Minister. But if any affect this Office, he should be Opposed in his Ambitious purposes. The person chosen to be a Moderator would be of such Abilities that he can discharge the following Work, viz. He is to look on himself as the Mouth of the Meeting; He is to take on him Authority, yet looking on it as theirs, not his; He is to see all the Rules for decency and order, prescribed by the Judicatory, exactly kept and observed; He is to acquaint the Judicatory of all the Affairs that lie before them, and may propose the most speedy Method how to dispatch them; He is to keep the Members from Interrupting one another, and from speaking among themselves, or from directing their discourse to any other than to himself; He would likewise keep Members, in their speaking, close to the present Business; Any thing that is spoken Impertinently, he is calmly to resent it, according to its demerit, that greater Heats may be prevented and diverted. Lastly, after the matter hath been fully Reasoned on all hands, then he is Briefly to Resume the Substance of what hath been spoke, and thereupon state the Vote, and put the Question. If the Vote be Equally Carried,

It is Convenient the Moderator be a Minister, his Work and Power.

then the Moderator (who never Votes but in that caſe) may caſt it: And if he be NON LIQUET, then the Queſtion may be put again at ſome other time. The Moderator may likewiſe upon any extraordinary Emergent by his Circular Letters, convein Preſbyteries and Synods before their ordinary time of Meeting. So may the Moderator of the laſt General Aſſembly, Only they would be ſure to have ſufficient Ground, and ſo cautions, as to have a Multitude of Counſellers to Warrand and Support their Adventure.

No Aſſeſſors to our Moderators

§ 2. Our Judicatories chooſe no Aſſeſſors to their Moderators, only he ordinarly prevails with, or invites the moſt Experienced to ſit near him, that he may have them ready to direct and Adviſe him: And in Abſence of the preſent Moderator, his Predeceſſor in that chair Moderates: And in caſe of his abſence, the Eldeſt Miniſter.

No conſtant Moderator, but in Kirk-Seſſions, the Manner of their Election.

§ 3. There is no conſtant Moderator but in Kirk-Seſſions, where the Miniſter Moderates EX OFFICIO, and if there be Colleagues they Moderate by Turns. Every Preſbytery, before they fall about Buſineſs, chooſe one of their Brethren to be Moderator, who continues for Six Months, from one provincial Synod to another: But the Moderators of Synods and Aſſemblies are changed at every new Synod and Aſſembly. The manner of chooſing the Moderators of theſe Judicatories is this, a Liſt is propoſed by the former Moderator of Two or Three, which Liſt is ordinarly Approved, with the Addition of One or Two more; Out of which Liſt, the Candidates having firſt by Turns given their Voice and Removed, the Moderator is choſen by the Suffrages of the Miniſters and Elders, and ſet in the place of the former Moderator.

The Privilege of Members.

§ 4. It is the Privilege of all the Members of any free Judicatory, to propoſe a Vote and have it put to the Queſtion, provided it be ſeconded by another Member, and that albeit both the Moderator and other Members ſhould oppoſe the motion.

TITLE X.

Of Clerks, Readers and Precentors.

A Clerk's Election Admiſſion and Continuance.

§ 1. EVERY Judicatory of the Church is to have a Clerk of their own chooſing, to Record their Acts. They are, I think, as free Courts, as any Councils of Royal Burghs, on whom the Impoſing a Clerk, is declared to have been contrary to Law, by the Meeting of Eſtates 1689. At his Admiſſion he is to give his Oath DE FIDELI, and continues either during Pleaſure or Life as they pleaſe to make. But in caſe neither of theſe be clearly expreſſed in his Act of Admiſſion, then it is to be underſtood only during Pleaſure, becauſe all Judicatories are ſtill ſuppoſed to retain their Liberty to diſmiſs Ser-

vants when they will, unleſs a Surrender or Reſtriction of that Liberty be proven.

How far Extracts are probative.

§ 2. Acts and deeds under Clerks hands are probative writs, and the Warrants thereof are preſumed; Yet ſo as if they be Recently Quarrelled, the Warrants muſt be produced. No wiſe Clerk will give an Extract till the Minutes of that Deit have firſt been read. The Extracts prove what was done by the Judge, or what was ſaid or alledged by Parties, but they do not prove that the Things alledged were True, except in ſo far as the Inſtructions thereof are Expreſt. VIDE Stair's INSTITUT. Page, 688.

A Clerk is not to be Declined.

§ 3. Albeit Clerks be very near of Kin to Parties, yet conſidering the Knowledge and Faithfulneſs, that in Charity is ſuppoſed to be in Church-Judicatories, it may be thought that they will rather Over-rule their Clerk, than he them: and therefore he cannot be declined in Inferior Civil Courts, where frequently there is but one Judge, and it is known the Clerk doth commonly Excel him in Knowledge, in which caſe a Declinator ſhould be ſuſtained, and another Appointed to be Clerk to that Proceſs in his place, who is of near Kin to the Party.

The firſt Riſe of the Readers; they are now ceaſed.

§ 4. At the Beginning of the Reformation when there was ſuch a Scarcity of Miniſters, and few of the people could either Read themſelves, or had ever heard the Word of GOD publicly Read in their own Language; Our Reformers in the Year 1605, did appoint men to read the Common Prayers and Scriptures till theſe Churches ſhould be Furniſhed with Miniſters. But now, ſeing there is ſuch an Increaſe of Knowledge, and Plenty of Teachers, there is no public Reading of the Word, except by ſuch as are Licenſed, or Ordained to Preach it, and can help the Hearers to Underſtand the Meaning thereof.

Precentors Office.

§ 5. Precentors, or Chantors are they who begin and order the Tune of the Pſalm that is to be Sung, and thereby direct the Churches Muſic: By the Vulgar ſort they are yet called Readers, though Improperly. They are in moſt Congregations Clerks to the Church-Seſſions. VID. LIB. 2. TIT. of Singing of Pſalms.

Beddal's Office and Qualification.

§ 6. Beddals, or Beadles, are by our Judicatories called Officers: They are to the Church what the APPARITORES were to Civil Courts, *viz. Magiſtratum Miniſtri, qui eorum juſſa exequuntur*, ſo called, *quia præſto ſunt, obſequunturquia Magiſtratibus*. At their Admiſſion they give their Oath DE FIDELI, becauſe their Executions bear Faith. They ſhould be Perſons of a Blameleſs Life, and well affected to the Church Eſtabliſhment, who will not diſcover the Secrets of the Judicatory, and they ſhould alſo be ſuch as can Read and Write.

TITLE XI.

Of Church Seſſions.

No Miniſter muſt Uſurp over the Seſſion.

§ 1. ALBEIT in a Seſſion the Miniſter is Moderator EX OFFICIO, as hath been ſaid, yet he hath by right, no more power thereby than the Moderators of other Church Judicatories. See the Act of the General Aſſembly Decem. 17th 1638, Anent Voicing in Kirk-Seſſions, Miniſters Moderating therein, are not to Uſurp a Negative Voice over the Members of his Seſſion, and where there are two or more Miniſters in one Congregation, that they have equal power in Voicing, that one of them hinder not the Reaſoning or Voicing of any thing, being agreeable to the Acts and Practice of the Kirk. And even in that caſe, voicing and reaſoning upon any ſubject can never be hindered, it being inconſiſtent with the Liberty of a free Court to be impeded or compelled. But the debate may perhaps furniſh Ground for a proteſtation or appeal. VIDE § 6. TIT. 8.

Conſtituents of a Seſſion, and Time of their Meeting.

§ 2. The Kirk-Seſſion conſiſts of one or more Miniſters and of the Elders of the Congregation, and it is moſt convenient they Meet weekly on a Week Day after Sermon: For on the Sabbath, Matters of Civil Right, ſuch as diſcharging of Eleemoſyner's intromiſſions, ſecuring of money, or ordering of Diligence for recovering the ſame, ought not to be Treated or concerted by any man, and far leſs by Church Guides, whoſe Office it is to check that profanity in others. The Deacons are always preſent, not for diſcipline, but for what relates to their own Office. Ignorant and Scandalous perſons are to be put off and kept off from Kirk-Seſſions. See Act of Aſſembly, Aug. 10th 1648.

Matters treated by them.

§ 3. The Matters treated by them, are what concern Church Diſcipline, and the Worſhip of God in that Congregation, as, what days of the week are meeteſt for Aſſembling to public Worſhip, and what hour on the Lord's Day before and after Noon; When it is Seaſonable for Parochial Faſts and Thankſgivings, what times are fitteſt for Catechiſing and Viſiting of Families: How often, and when the Lord's Supper is to be Celebrated; They are likeways to Enquire into the Knowledge and Spiritual State of the Members of the Congregation, whom they are to Admoniſh or Encourage as they ſee cauſe, and to Exclude from the Lord's Table all who are found Ignorant or Scandalous.

According to what Rule.

§ 4. In the Ordering of all which Matters, nothing is to be done by them, but what is according to the ſettled Order and practice of this Church: And if there be any new or diffiicult emergent that cauſeth Doubting or Heſitation, the Matter is to be Referred to the Preſbytery, for their direction and authority.

§ 5. By the 5th CHAP. 28 and 30 Articles of the French Church Diſcipline, conſiſtories ſhall not give certificates to Magiſtrates by Act or otherways, nor ſhall particular Members of conſiſtories diſcover unto any the confeſſions of penitents, which voluntarly, or by admonitions given them, ſhall have confeſſed their faults unto them, except it be in the Caſe of Treaſon. And as for Crimes which ſhall be diſcloſed to Miniſters by thoſe who deſire council and conſolation, they are enjoyned not to reveal them to Magiſtrates, fearing leſt blame ſhould be drawn on the Miniſtry, and Sinners for the future ſhould be diſcouraged to come to repentance, and make confeſſion of their faults, which ſhall ſtand good in all Crimes confeſſed, except it be Treaſon. It would be conſidered that none of the Reformed Churches of France had the happineſs always to have thoſe of their own religion to be their conſtant Judges; And the reputation of the Proteſtant Religion was not tenderly Treated, nor duely regarded when conſiſtorial delations againſt their Brethren were made to Popiſh Judges, 1 Cor. vi. 1. "Dare any of you having a Matter againſt another, go to Law before the Unjuſt, and not before the Saints." In theſe times when the Churches enemies have power and authority; But now when the civil Judges own the ſame way of God with the Church, what ſhould hinder them to inform the Magiſtrate againſt delinquents both to their and others Terror.

Secret Confeſſions not to be propalled, except in what Caſes.

§ 6. In every Seſſion there ought to be twice in the Year privy Cenſures of the Members, Clerk and Beddal. The Miniſters undergoing their privy Cenſures in the Preſbytery, are not to undergo them before the Seſſion. In the managing of this Cenſure, the Members are one after another to be removed and then the reſt of the Members declare what they have obſerved concerning the converſation of him removed, and of his diligence and prudence in his Station. It is to be remembred by all Church Judicatories at their privy Cenſures, that no Member Judicially delate another, unleſs ſecret Satisfaction hath been ſought and refuſed. After Elders, Deacons, Clerk and Beddal have paſt their Cenſure, each of them, as they are called in, is either to be Admoniſhed before all, or others Impowered to do it privately, or elſe they are to be encouraged as need requireth.

Privy Cenſures in Seſſions, and how to be managed.

§ 7. By the Act of Aſſembly Auguſt 19. 1639, the Books of Kirk Seſſions are to be preſented once a Year to the Preſbytery, that they may be tried by them; Or when there is a viſitation of the Pariſh by the Preſbytery. Aſſembly Aug. 10. 1648.

Seſſion Books to be tried by the Preſbytery yearly.

§ 8. By the Act of Aſſembly February 12. 1645, it is Recommended to every Kirk-Seſſion to buy the printed Acts of the Aſſembly, and Preſbyteries are ordained to crave account hereof, and Synods are to crave account from Preſbyteries. And it is added to this Act, by the 18 of the Aſſembly 1705, that the Agent for the Kirk in all time coming, after every Aſſem-

Each Seſſion is to have the Acts of Aſſembly read and to

ly, so soon as the Acts thereof shall be printed, transmit as many Copies of the same to every Presbytery as there be Parishes therein, and both Presbyteries and Sessions are ordained at their first meeting after receiving the said Acts to cause read so many of them as are of public concern, in order to their observing thereof. And all this to be upon the charges of the several Presbyteries and Sessions.

The Church Session is sufficient alone for Reformation of Manners in a Parish, having the Magistrates Concurrance.

§ 9. By the 4th Article of the fifth CHAP. of the French Church Discipline, it shall not be permitted to establish other council for any Church Business whatsoever, and if in any other Church, there shall any other council be established, different from the consistory, it shall forth-with be suppressed; Nevertheless, the consistory may sometimes call to its aid such of the Church as shall be thought convenient, and, that Ecclesiastical Matters be treated of only in the place where the consistory doth assemble. They have lately erected in England Societies for Reformation of manners, not without some seeming success against Vice and Immorality, which is commendable and requisite there, until the Discipline and Government of their Church be more pure, and better reformed. But for the Church of Scotland, as now established, to imitate that example, beside that it might become an Introduction to Innovations, it would resemble a vain youth's bringing wide sleeved coats in fashion, because some persons of Quality, who had a distemper in their arms, were necessitated to cause make them wide for their own ease. The Author of the Stage condemned page 45, proves Stage-plays to be condemned in Scripture by this argument, that which God hath appointed sufficient means to accomplish, it is unlawful for men to appoint other means to accomplish it. But God hath appointed sufficient means for recommending Vertue and discountenaning Vice without the Stage: ERGO, it is unlawful for men to appoint the Stage for recommeding vertue, and discountenancing Vice. And the same argument, MUTATIS MUTANDIS, militates against these new Lay-Societies for Reformation of Manners in the Church.

TITLE XII.

Of Presbyteries.

The Constituents of a Presbytary's Quorum, & Time of Meeting.

§ 1. THIS Judicatory consists of all the Pastors within the bounds, and one Ruling Elder from each Parish therein, who receives a commission from the Eldership to be a member of the Presbytery, and represent them there till the next Synod be over; Thus twice a year there are new Elections of the Ruling Elders. The number of Parishes associated in Presteries for their mutual help, is determined by Authority of the National Synod, Dec. 17, 18. 1638, Art. 8. as the adjacency of the Congregations, and the easiness of travelling doth best allow. Where there are Collegiate Ministers, that Session may

ſend as many Ruling Elders. The Directory for Government ſaith, That, to perform any Claſſical Act of Government or Ordination, there ſhall be preſent, at leaſt, a major part of the Miniſters of the whole Claſſis. Preſbyteries ſhould meet every third week, and oftner if buſineſs require it; But of this ſee § 3. H. T.

§ 2. Every meeting of a Preſbytery is to begin with a Sermon by one of the Brethren, appointed formerly for that effect, upon a Text aſſigned him by them, except when Probationers or Intrants ſupply the Pulpit in their public Trials. The half of the time allowed for this Preſbyterial Exerciſe is to be taken up in the Explicatory and Analytic Part of the Text, and in anſwering texual and critical Queſtions and Difficulties; This part of the Work is called MAKING, and requires more eſpecially the Gift of the Doctor. The other half of the time allowed is to be taken up in raiſing of Doctrines and Obſervations from the Text, and applying them in their ſeveral Uſes, which laſt part is called ADDING, and it requires more eſpecially the Gift and neceſſarily the Authority of the Paſtor. After the Exerciſe is over, and the Preſbytery conſtitute, the cenſure of the Exerciſe they have heard uſeth always to be their firſt work which may be done before them who had the Exerciſe. Beſide this the Brethren of the Preſbytery by the Act of Aſſembly December 17, 18. 1638, are to have ſome common Head of Doctrine publicly diſputed in the Preſbytery among the Brethren, every firſt Preſbytery of the month, according to the Act of Aſſembly holden at Dundee 1598. Seſſ. 12. Preſbyterial Exerciſe and Common Heads.

§ 3. By the foreſaid Act 1638, Preſbyterial meetings are to be Weekly, except in places far diſtant, who between the firſt of October and firſt of April, are diſpenſed with for Meeting once in the fourteen Days, VIDE § 1. H. T. Likeways that Act appoints all Abſents to be cenſured, eſpecially thoſe that ſhould exerciſe and add, according to the Act of Aſſembly 1582 April 24. Abſents to be Cenſured.

§ 4. The Preſbytery treats of ſuch Matters as concern the particular Churches within their Bounds, as, the Examination, Admiſſion, Ordination, and Cenſuring of Miniſters; The Licenſing of Probationers, rebuking of groſs or contumacious ſinners; The directing of the cenſure of excommunication; The cognoſcing upon references and Appeals from Kirk-Seſſions; The reviſing and rectifying what hath been ill done or negligently omitted by them, at their approving of the Kirk-Seſſion Books and Records; The anſwering of queſtions, Caſes of Conſcience, and ſolving of difficulties in doctrine or diſcipline, with petitions from their own or thoſe in other Preſbyteries; The Examining and cenſuring according to the Word of God, any erroneous Doctrine, which hath been publicly or more privately vented within their Bounds, and the endeavouring the Reducing and converſion of any that remain in error and ſchiſm; The appointing Matters treated of in Preſbyteries.

of Visitation of Churches by themselves as occasion offers, or the perambulation of Parishes in order to their Uniting or disjoyning; All which are either concluded or continued to further consideration, or referred to the Synod.

Processes which begin but cannot be determend by the Session, but referr'd to the Presbytery. as the Judges competent.

§ 5. By the 6th CHAP. 11 Act of Assembly 1707, there are some Processes which natively begin at the Kirk-Session, which for the atrocity of the scandal, or difficulty in the Affair, or general concern; The Session having frequent Meetings of the Presbytery to have recourse unto, do not determine of themselves, such as Scandals of Incest, Adultery, Trilapse in Fornication, Murder, Atheism, Idolatry, Witch-craft, Charming, Heresy and Error vented and made public by any in the congregation, schism and separation from the public ordinances, Processes in order to the highest censure, and continued contumacy. But Processes for all such Crimes and Scandals, are to be referred to the Presbytery, by an extract of their procedure thereanent. And when there is no confession of the Scandals above mentioned, the Session is not so much as to proceed to lead probation by Witnesses or presumptions, till they be authorized thereto by the Presbytery's answer to their reference foresaid.

When the Session may cite a person to the Presbytery.

§ 6. When the process is so clear, as in the case of a Judicial confession, then the Kirk-Session may summon the delinquent when before them APUD ACTA, to compear before the Presbytery: But where there is any difficulty, they should first inform the Presbytery, and get their Allowance before the Party be summoned before them.

Sessions cannot absolve from such Scandals without the Presbytery.

§ 7. When persons censured for these grosser Scandals do apply to the Kirk-Session for relaxation, they may both be privately conferred with, and likeways their Acknowledgements heard before the Session, but they ought not to be brought before the congregation, in order to their absolution, nor absolved but by direction and order of the Presbytery.

Correspondence of Presbyteries

§ 8. Presbyteries in some cases may send commissioners to other Presbyteries, either to advise them, or to seek advice from them. By Act of Assembly June 18. 1646, it is recommended, that a Correspondence be kept among Presbyteries constantly by Letters, whereby they may be mutually assisting to each other.

Privy Censures in presbyteries their season upon days of Prayer.

§ 9. In every Presbytery, at least twice a Year, on days for Prayer, as should be done in Sessions likeways, before each Synod, there ought to be privy Censures, whereby each Minister is removed by course, and then enquiry is made at the Pastors and Elders, if there be any known Scandal, Fault, or Negligence in him, that it may be in a Brotherly manner Censured; After the Ministers, the Presbytery Clerk is to pass these Censures likeways. By the 6th Article of the 7th Chapter of the French Church Discipline, at the end of the Colloquies, amicable and brotherly Censures shall be made, as well by the Pastors as by

the Elders, which ſhall be there preſent, of all things which ſhall be thought fit to be Repreſented unto them.

TITLE XIII.

Of Parochial Viſitations by the Presbytery.

§ 1. PARISHES are viſited by Preſbyteries, either Occaſionally, PRO RE NATA, according to the weight of the emergent which doth require the Viſitation, or Ordinarly and in courſe, whereby every congregational Church is viſited once a Year, Aſſembly 1638. Seſſ. 23, 24. Art. 3. At leaſt this Ordinary Viſitation ſhould be going round all the Pariſhes in order till they be Viſited, before others be reviſited in ordinary: For by the 16th Act of Aſſembly 1706, Preſbyterial Viſitations of Pariſhes are to be frequent. Viſitations Occaſional or ordinary

§ 2. The Preſbytery is to cauſe Intimation to be made of their appointed day for the Viſitation of that Pariſh, by a brother of another congregation, from the Pulpit, immediately after the Fore-noon's Sermon, on the Sabbath, ten days preceeding the day for the Viſitation, requiring the Miniſter of the Pariſh to preach at that time and place on his ordinary Text, and ſummoning the Heretors, Elders, and whole congregation, to be preſent that day to hear Sermon; And thereafter, that the Miniſter, Heretors, Elders, and Heads of Families, do attend the Preſbytery, to acquaint them with the State of that Kirk and congregation in every point, and if any of them have certain knowledge of any thing amiſs in their Miniſter, Elders, Deacons, Precenter, Seſſion-Clerk, School-Maſter, or Beddal, that they do then acquaint the Preſbytery therewith. How the day for the viſitation is to be Intimated.

§ 3. The Seſſion Regiſters, together with a Catalogue of the Miniſters Books, are to be produced to the Preſbytery, before the Viſitation, and given to two of the fitteſt brethren, and beſt acquainted with that Miniſter, and people, to be ſeen and Reviſed, and they to report at the Viſitation. The Miniſter's Library and Seſſion Regiſter to be ſeen and Reviſed.

§ 4. Sermon being ended, and the Preſbytery conſtituted, the Miniſter's Doctrine he had in his Sermon, is firſt to be conſidered, as in the Preſbyterial Exerciſe. Then the Church Bible, Confeſſion of Faith, Acts of the General Aſſemblies, Acts and Proclamations againſt Profaneneſs, and other Acts and Papers relative to the Church, are all to be called for and produced before the Preſbytery. The viſitors of the Seſſions Regiſters, and Miniſter's Library are to make their report. The Preſbytery at the Entry on the Viſitation having removed the Miniſter, are to cauſe read over their actings at the laſt Viſitation, and ſee if what was then recommended or ordered hath been made Effectual, and take the excuſes of abſent Elders and Deacons therefrom, and if need be, to call in any party for information; If nothing ariſe from that, to divert the Preſbytery from the or- Preliminaries to the Viſitation. And how the Elders are to be Interrogate.

derly Method, all parties being removed, the Presbytery is to call in the Session VICISSIM, and to enquire at them concerning their Minister; Yea further, by the Act of Assembly June 13. 1646, at Visitation of Kirks, the Elders, one by one, the rest being removed, are to be called in, and examined upon Oath concerning the Minister's Behaviour.

Ministers Families to be Interrogate concerning their Lives.

§ 5. By the Act of Assembly 1596, ratified December 17. 1638, at Visitation of Kirks, the Families of Ministers are to give an Account, and to be tried concerning the good order and Behaviour that they observe within their Families, and such as are found Neglectors of Family Worship, or instructing of all in their Families, or such as remove not those who are Offensive therefrom, shall after due Admonition be judged unfit to Rule the House of God: For he ought to be one that ruleth well his own House, 1 TIM. iii. 4.

Church-session Interrogate concerning their pastor.

§ 6. The Questions to be enquired by a Presbytery at the Eldership concerning a Minister may be these and such like. 1. Hath your Minister a Gospel Walk and conversation before the people? And doth he keep Family-Worship? And is he one who Rules well his own House? Is he a Hunter of Ale-houses and Taverns? Is he a Dancer, Carder or Dicer? Is he Proud or Vain-glorious? Is he Greedy, or Worldly, or an Usurer? Is he Contentious, a Brawler, Fighter, or Striker? Is he a Swearer of small or minced Oaths? Useth he to say, BEFORE GOD IT IS SO, or in his common Conference, I PROTEST, or, I PROTEST BEFORE GOD? Or, says he, LORD WHAT IS THAT, all which are more than YEA and NAY? Is he a filthy Speaker or Jester? Bears he familiar Company with Disaffected Prophane or Scandalous Persons? Is he Dissolute Prodigal, Light, or Loose in his Carriage, Apparel, or Words? How spends he the Sabbath after Sermon? Saw ye him ever drink Healths? Is he at Variance with any? Is there any that Reproaches him? Or, is he well beloved of all? And upon what Ground is it that the Variance or Good-liking of the people is? 2. Keeps he much at Home at his Ministerial Work? Or, doth he occasion to himself Distractions, and unnecessary Diversions therefrom? Is he constant at his Calling and Studies, or takes he but pains at Fits and Starts, such as, at Fasts, Communions, Visitations, &c? Is Saturday only his Book-day, or is he constantly at his Calling? 3. Doth he discountenance or discourage any that is seeking Christ? Doth he preach sound Doctrine, so far as ye can understand? Doth he preach plainly, or is he hard to be understood for his Scholastic Terms, Matter or Manner of Preaching? Doth he faithfully reprove Sin, especially such as most prevail in the Parish? What time of day doth he ordinarly begin Sermon on the Sabbath? And when doth he dismiss the people? Spends he too much time in his Sermon in repetition of what he had before? Doth he Lecture and preach in the Fore-noon, and preach

again in the After-noon on the Lord's Day, and that both Summer and Winter? Doth he read a large portion of Scripture in public, and expound the ſame? Doth he preach Catechetic Doctrine ordinarly in the After-noon? Hath he a Week days Sermon, and Collections on theſe Days? When the Lord in his providence is ſpeaking extraordinary things, doth he tie himſelf to his ordinary Text, or makes he choice of one more appoſite and ſuteable to the diſpenſation? Seeks he to preach Chriſt's Beauty and Excellency, and to open up the power and Life of Godlineſs? Endeavours he to diſcuſs Caſes of Conſcience, to let you know your Spiritual State, what it is? 4. Doth he according to the Act of Aſſembly 1708, viſit the people and Families, at leaſt once a Year in a Miniſterial way, teaching and admoniſhing from Houſe to Houſe? And doth he viſit the Sick when needful, and Pray over them? Doth he viſit them who through Age or Sickneſs cannot come to the Public Worſhip? Doth he Labour to ſpeak to the Sick ſuteable to their various inward conditions? Doth he not eſpecially viſit ſuch as be exerciſed in Conſcience? Doth he viſit ſuch as are afflicted by Death of children or other Relation? Viſits he the Widows, Orphans and Poor? If he be Miniſter of a Burgh, viſits he the priſoners? Is he not careful when he viſits Families to confer with them in private, and Pray with them, thereby learning the caſe of their Souls, that ſo the Doctrine in public may the better meet with their condition? 5to. Doth he Adminiſter the Sacrament of Baptiſm in an orderly way, when the congregation is conveened, or doth he it at any time privately? Doth he add any word to, or alter the Words of Inſtitution? 6to. Doth he frequently Catechize his Pariſhoners, and Adminiſter the Sacrament of the Lord's Supper to them? And is he careful in keeping from that Holy Ordinance, all who are known to be Scandalous, groſly Ignorant or Erroneous? How often have ye the Communion every Year? Doth he not begin to Catechize Young Ones about Nine or Ten Years of Age, and how cenſures he contemners of Catechizing? What courſe is taken with contemners of the Lord's Supper upon frivolous pretences? At the Lord's Supper, doth he not cauſe Cut the Bread in large and fair Shaves fit for mutual Fraction and Diſtribution, that as they give the Cup to the neareſt affident, ſo having broken off a part of the Bread with their hand for themſelves, they give the reſt to the perſon ſitting neareſt them? Do your people all ſit at the Lords Table? In the time of Diſtribution, Eating and Drinking, is there any Reading, or Singing of Psalms, or is there ſilence, and ſo time for Meditation, except it be a ſhort pertinent and awakening Word dropped by the Paſtor? 7timo. Hath he a competent Number of Elders? And hath he Deacons in the Pariſh diſtinct from Elders? Doth he keep Seſſional Meetings frequently? And

is he Impartial in the exercise of discipline against all offenders? Is there frequent Meetings of the Members of Session, for fasting and Prayer according to the Act of Assembly 1699. Doth he travel with public Penitents in private to make them sensibe of their sin, according to its circumstances, and sensible of mercy, that the Love of Christ may overcome the love of Sin? And then doth he absolve them, when brought up to some Ingenuous confession and Resolution for the future? Doth he ever censure Persons for living idle, breaking of promise, or for Backbiting? Doth he censure Keepers of Superstitious Days? How doth he restrain abuses at Penny-Bridals? Doth your Session meet Weekly? Doth your Minister coolzie any whom another brother hath in Process? Or doth he carry any way partially, that so he may become popular? Doth he in Session assume to himself a Negative Voice? When he is necessitated to leave his Flock, doth he not acquaint the Session with it? 8vo. Is he careful to take away variances that fall out among Families, and Compose Differences among particular Persons in the Congregation.

Pastors & Heads of Families Interrogate concerning the Church-session.

§ 7. After that the Elders have answered to these or the like Questions: Then the Heads of Families are to be interrogate in general concerning the Lives and Manners of the Members of the Session: And the Pastor is to answer more particularly to these or the like Questions. (1.) Is your Session rightly Constitute, and all the Elders and Deacons duely admitted according to the Acts of Assembly? (2.) Do they all attend Gospel-Ordinances and the diets of the Session? (3.) Are they Grave, Pious, and Exemplary in their lives and conversations? Do they Worship God in their Families? Is any of your Elders an Ignorant man, a Drinker of Healths, a Tipler, a Drinker Excessively to Drunkenness, a Swearer, an observer of Yule-Days, &c? Is he one that Observes not the Sabbath? Is he careful to keep his Oath of Admission taken before God in Face of the Congregation, not to delate or censure, but as Edification Requires? Do any of them Work on Solemn Fast or Thankf-giving days? Is any of them a Mocker of Piety? (4.) Are they Diligent, Careful and Impartial in the exercise of their Offices? Do the Elders Visit the Families within the Quarter and Bounds assigned to each of them? Are they careful to have the Worship of God set up in the Families of their Bounds? Are they careful in calling for Testimonials from Persons who come to reside in the Parish? Do the Elders take all discipline upon themselves without the Minister? Or do they labour to carry things Factiously, or by Plurality of Voices contrary to God's word, and the laudable Acts of the Presbytery, Provincial, or General Assemblies? (5.) Have the Elders Subscribed the CONFESSION OF FAITH? And are they all well affected to the Government, Worship and Discipline of this Church? (6.) Have the Elders and Deacons their distinct Bounds assigned them for their par-

ticular Inſpection? (7.) Does your Seſſion always appoint a Ruling Elder to attend Preſbyteries and Synods? (8.) Are the Deacons Faithful in their Office, in Collecting and Diſtributing all the Kirk-Goods, and in having a Care of the Sick Poor? After all theſe QUERIES are over, the Miniſter and Elders are to be ſeverally Encouraged or Admoniſhed as the Preſbytery ſees need.

The Precentor, Beadle, &c.

§ 8. Then the Precentor, School-Maſter, and Clerk of the Seſſion, who in Country Congregations are ordinarily one and the ſame, and after them the Beadles, Bell-men, and Church Servants being removed, the Preſbytery is to enquire at the Miniſter, Seſſion and Heads of Families concerning their converſation, Fidelity and Diligence in their Offices, and the Preſbytery is thereupon to proceed as the matter requires.

Paſtor and Elders Interrogate concerning the Congregation.

§ 9. After all theſe enquiries, the Preſbytery removing the Heads of Families, the Miniſter and Elders are to be enquired concerning the Congregation, (1.) Doth the Body of the people attend Ordinances duely and timeouſly, and ſtay till the Bleſſing be pronounced? Are they diligent in improving the means of Knowledge, and are they Growing therein? (2.) Are they Submiſſive to public and private Exhortations, and to the diſcipline and cenſure of the Church, by Admonitions and Reproofs as Need requires? And do they by their Words and Actions manifeſt a ſuitable Reſpect to their Miniſter and Reſpective Elders? (3.) Are they careful to Educate their Children and Servants in the Knowledge of God? What Succeſs hath the Goſpel and Labours of Miniſters and Elders among them? What Scandals, Schiſms, Hereſies or Diviſions are among them, and if on the Growing Hand? How do they obſerve the Lord's Day

Paſtors, Kirk ſeſſion and Heads of Families Interrogate about Things of Common Concern.

§ 10. Then the Miniſter, Heretors, Seſſion, and Heads of Families being preſent, the Preſbytery is to enquire after the State of the Church, as to its Fabric, the Seats therein, and Diviſion of the ſame, the Church-Yard Dykes, the Utenſils of the Church, Communion Cups, Cloaths, the Miniſters Manſe, if it be in Repair, the Glebe and Stipend, the Sallary of the School-Maſter, Precentor, Seſſion Clerk, and Beadles, and how the communion Elements are provided, whether they be payed for out of the Poor's Money, and that when the Communion is but Celebrated once a Yaar? VID. § 24. TIT. 2. LIB. 2. Enquiry is to be made how much the Stipend is? of what Nature? How payed? and if there be a Decreet of Locality for it? As alſo, about the State of the Poor, whether there be any Mortifications and Legacies for them, or other Pious Uſes? And how theſe are ſecured, and their Intereſts paid and applied, and how they have been managed and employed from time to time, Seſſ. 18. Aſſem. 1700. After the Viſitation is over, all parties are to be called in, and the Moderator is to conclude all with Prayer.

TITLE XIV.

Of Provincial Synods.

The Constituents of a Synod, their Time of Meeting &c,

§ 1. THE Synod or Provincial Assembly is immediately superior to the Presbytery, and consists of several Presbyteries met together for their mutual help and comfort, and for Managing the Affairs of public Concern within their Bounds. The Number of Presbyteries in each Synod is determined by the National Assembly, and they meet ordinarly Twice every Year, and at such set times as the Neighbouring Synods may conveniently Correspond one with another, which is done by sending a Minister and Ruling-Elder mutually from one to another, viz. The Provincials of Lothain, Mers, &c. The Provincials of Dumfries, Galloway, Glasgow, and Argyle, the Provincials of Perth, Fife, and Angus, &c. The Provincials of Aberdeen and Murray; The Provincials of Ross, Caithness and Orkney; See likeways the order of the Provincial Assemblies in Scotland, according to the Presbyteries therein contained in the Act of Assembly, December, 17, 18. 1638. Act 24.

Synod opened, Rolls made up, Moderator chosen, and Correspondents Inrolled.

§ 2. The Moderator of the former Synod doth in the morning before the meeting, preach a Sermon suited to the occasion, and after Sermon doth Intimate to the Members, that they immediately Repair to the Synod House; when they are met, he doth open the meeting with Solemn Prayer; Then the Clerk having made up the Synod Roll from the Rolls of each Presbytery presented to him by their Respective Moderators, he is to call the same over and to mark the Absents. In making up the Synod Roll it is usual to change the order thereof every Synod, so that the Presbytery that was first called in the Roll of the former Synod is now called last. Then the Synod proceeds to the choise of New Moderator, who first calls for the Correspondents from the Neighbouring Synods: and their commissions being Read, they are Inrolled as Correspondents.

Committees of Synods their Work Use and Power.

§ 3. Committees are to prepare matters, and to lop off unnecessary Work for gaining of Time, and to hinder Heats by public debates, and to facilitate their Work, they may sub-commit any part thereof to a few of their own Number; And they may likewise advise one with another in weighty Affairs, even before report to the Synod, thereby the more to prevent debates. Any affair tabled before them, though by them Rejected, may be brought in, in full Synod, Yet so, as the member or Party who bringeth in the matter, be sure to have very much reason or Necessity for so doing. All Synods may have the following Committes. 1. A Committee for Overtures; 2. Another for Bills, References and appeals; And a 3d For Revising Presbytery Books, who are to meet at such times and places as the Synod appoints: Each Committee and Sub-Committee is to consist of Ministers and Ruling-Elders: the Moderator and Clerk

of the Synod is Moderator and Clerk to the Committee of Overtures. All other Committees chooſe their own Moderator and Clerk, who is to preſent their report to the Synod in Writing: Any member of a Judicatory may be preſent with the Committee though none of the Number, and may Adviſe but not Vote there: As alſo may one of a Committee be preſent in Sub-Committees of their own appointment, all which Committees are choſen by the Synod only, as General Aſſemblies do theirs.

Matters treated by Synods.

§ 4. The Preſbytery Books are called for and produced, and each Book is committed to ſome Members of other Preſbyteries to be Reviſed and Examined by them, that it may appear how each Preſbytery hath kept order, and performed what was Recommended to them by Synods or General Aſſemblies; And upon the Reviſer's Repoſt, they are cenſured or approved accordingly. What was Obſcure or Difficult for the Preſbyteries, or might concern them all in common, is Reſolved and Ordered: What hath been done Amiſs by Preſbyteries is Redreſſed: And if any difficulty ariſe which doth not fall under ſome Church conſtitution, it is referred to the national Aſſembly.

Preſbyteries are to carry home and read Synod Acts.

§ 5. Every Presbytery is to get an Extract of the Acts of every Synod, and to Read ſuch of them in the Presbytery as are of General Concern, or which particularly relate to any in their Bounds, that they may be the better Obſerved.

Privy Cenſures by Synods.

§ 6. At the privy Cenſures, none ought to be preſent but members. Upon the Reviſer's Report of the Preſbytery Books, each Presbytery is removed PER VICES, in order to privy Cenſure in the ſame manner as was ſaid of the Miniſters in Preſbyteries, and of Elders in Seſſions, VID. § 1. TIT. 15.

Centeſima to Miniſters widows and Children.

§ 7. By the 12th Article of CAP. 8. of the French Church Diſcipline, concerning Provincial Synods, the Paſtors in each Province ſhall repreſent the Widows and Children of Miniſters who died in the Service of the Church, to be ſupported and Maintained at the common charge of each Province; and where the Province ſhall be Ingrateful, the National Synod ſhall Redreſs it. Our Church propoſeth the ſame Perſons as proper Objects for the Paſtor's charity in the Synods, and the CENTESIMA, or Hundreth part of each Benefice to be the Fund, and paid in to the Collector thereof Yearly, who is to be appointed by each Synod, and is to diſtribute the ſame to the reliets, and Children of deceaſed Miniſters within the Bounds of the Synod conform to their Order.

TITLE XV.

Of Extraordinary Synods and General Aſſemblies.

Extraordinary Synods

§ 1. EXTRAORDINARY Synods, I call ſuch, as that of the Aſſembly at Weſtminſter, which conſiſted of

only to be held in a disturbed state of the Church.

Divines and Gentlemen, many of whom were not Elders, called and nominated by the civil power to consult about the doctrine, worship and government of the Church. Or, when Ministers without delegation from the Church, do of themselves meet by virtue of their office. Which Synods this Church doth not approve of in a settled and constitute condition, but only in such Churches as are not yet constituted. It being always free to the Magistrate to advise with Synods of Ministers and Ruling Elders meeting upon delegation from their Churches, either ordinarily, or being indicted by his authority occasionally. See the Act of Assembly 1647, Approving the Confession of Faith, Yet by Act of Assembly, December 19th, 1638, Ministers are obliged to give their advice and good counsel in matters concerning the Kirk, or the conscience of any whatsoever, to His Majesty, to the Parliament, to the Council, or to any members thereof for their Resolutions from the word of God.

Members of a National Assembly by the directory should be as many Ministers, at least as Ruling Elders.

§ 2. By the Directory for Church Government, as it was printed in the year 1647, to be examined by Presbyteries, the Assembly was to consist of as many Ruling Elders as Ministers, which doth agree with the 9th Chap. Art. 3. of the French Church Discipline: but by the directions of the English parliament, Aug. 19th, 1645, it is provided, that there be in all Assemblies two Ruling Elders to one Minister. It seems indeed but reasonable, when Presbyteries the Constituents of General Assemblies do consist of Ministers and Ruling Elders equally, that they should be equally represented there likewise.

The nature of our first Gen. Ass. after the Reformation.

§ 3. At the beginning of our Reformation, the Assembly did consist of these of the Reformed Religion, delegated from some Shires and Burghs where the Reformed dwelt. The number of Pastors was then so small that it did not exceed the fourth part of the meeting, as may be seen from their Sederunts in the copy of the M. S. Acts of Assemblies: and until the number of Ministers did increase and multiply, it was at first a general meeting of them all: but thereafter they did impower and commissionate a few to Represent them, who are thereupon only designed The Commissioners of the General Assembly.

What may Annul a general assembly.

§ 4. If an Assembly be Indicted by the Civil Magistrate, on so short an Advertisement as twenty Days, that Presbyteries (especially the more remote) are not timeously advertised to choose Commissioners, and so the Church not so fully Represented, an Assembly so meeting is declared null. All New Scots Parliaments were called on fourty days, and what prejudice can it do if Presbyteries receive as fair an Advertisement, unless it be to the service of some present design against the Church? 2dly, an Assembly is null where the members or a great many of them are not elected by Presbyteries, but named by the Magistrate, in which case, though they may Act as Advisers of the Magistrate, yet they cannot act as these having authority from the Church.

3dly, An Assembly is null, when Presbyteries are Represented by more Ministers than the standing Acts of Assemblies, regulating the Representation, doth allow, or where no Ruling Elders are commissioned. 4thly, An Assembly is null, when Members do not vote for these matters, to which they are threatened to give their vote, by the Civil Magistrate. 5thly, An Assembly is null, when a Moderator or Clerk is imposed upon them without their Suffrage. See at length Acts of Assembly, December 4th, 1638.

Assemblies may meet yearly, and oftner, PRO RE RE NATA.

§ 5. The General Assembly December 20th, 1638, declares that by Divine, Ecclesiastical and Civil Warrant, the Assembly of this National Church hath power and liberty to assemble and conveen in her yearly General Assemblies, and oftner, PRO RE RE NATA, as occasion and necessity shall require: to this agrees the Act of Parliament 1690, Ratifying the Confession of Faith, and settling Presbyterial Church Government, so that the Sovereign, till these Laws be altered, cannot by his meer authority or proclamation, render the meetings of Assemblies precarious and uncertain, unless he run the risque of renewing the dispensing power.

The Representation in General Assemblies, & the Number of Members. All Ministers or Elders. And must attend

§ 6. By the 5th Act of Assembly 1694, the Representation of the several Presbyteries in this National Church in its General Assemblies, shall hold proportion to the number of Parishes whither vacant or planted within each Presbytery, in manner following: all Presbyteries consisting of twelve Parishes, or under that number, shall send two Ministers and one Ruling Elder. And all Presbyteries consisting of eighteen Parishes, or under that number, but above twelve, shall send three Ministers and one Ruling Elder. And all Presbyteries consisting of twenty four Parishes, or under that number, but above eighteen, shall send four Ministers and two Ruling Elders. And Lastly, all Presbyteries consisting of above 24 Parishes, shall send five Ministers and two Ruling Elders. And every Collegiate Church where there use to be two or more Ministers, are so far as concerns the design of this Act, understood to be as many distinct Parishes: So that Presbyteries delegate not less than a sixth part, nor more than a fifth part of the Ministry. Conform to the Representation proprotioned by this Act, the number of Ministers delegate from Presbyteries are one hundred and eighty, and of Ruling Elders sixty-eight. But each royal Burgh having the privilege (if they please to use it) to be represented there by a Ruling Elder, and the city of Edinburgh by two, this would add sixty-seven more Ruling Elders to that Order, making in all of Elders 135. By that same Act, no persons shall be admitted Members of Assemblies, but such as are either Ministers or Ruling Elders. And by the 6th Act of Assembly 1698, it is recommended to Presbyteries to choose only such Ruling Elders as may and will give attendance.

§ 7. Commissioners from royal Burghs, till the matter be fur-

There should be no Delegations but from presbyteries only.

ther thought upon, by the Act of Assembly July 15th, 1648, are to observe the ordinary practice, viz. That each Burgh send one and Edinburgh send two Ruling Elders approven of and consented to by the Ministery and Session of the Burgh. But yet each University may be represented, by a Minister or Ruling Elder; neither is that kind of approbation of the choice required, albeit there may be the same reason for it: For the members of a Faculty as such are not obliged to be either Ministers or Ruling Elders. But upon the whole, our practice would be more easily accounted for, and a great deal more agreeable to that of Foreign Churches, if delegations were only from Presbyteries, and the Delegates equally both of Ministers and Elders.

All Commissiones must reside, or have Relation to the bounds they Represent.

§ 8. By the 6 Act of Assembly 1704, no Minister or Elder can be commissionated to the General Assembly by any Presbytery, Burgh, or University, but such as usually reside in, or have a relation to the Presbytery, Burgh, or University they are commissioned from. This is Enacted, that pragmatic and designing men many be kept out from being members of Assemblies: after their own Presbyteries, &c. (perhaps from some such apprehension) had been pleased to neglect them in their choice.

The Scots Kirk at Campvere represented their instructions, &c.

§ 9. The Assembly by their Act the 9th of August, 1641, considering, that if the Scots Kirk at Campvere were joined as a member of the Kirk of Scotland, it would be convenient for correspendence from foreign parts for the well of this Kirk: therefore they desired the said Kirk of Campvere to send their Minister with a Ruling Elder, with their commission to the next General Assembly, at which time they should be inrolled as commissioners from that Kirk. When that Church is vacant, the convention of Royal Burrows have been in use to present a Minister, and act as Patrons. And by the Act of Assembly 1704, some propositions concerning the said Kirk approved by the Assemby 1642, are of new enacted and authorised, viz. (1.) That the said Kirk observe that order in the outward worship of God, and exercise of discipline, as is here received by law and practice. (2.) That, at least, every third year their Commissioners be at the Assembly, whose Expences are to be paid by their own Kirk, till this Church be in a better Capacity to do it. (3.) That they advise with the Presbytery of Edinburgh, or Commission of Assembly concerning Emergent Difficulties.

commissioners to and from Assemblies; their Expences.

§ 10. By the Act of Assembly 1638, December 17, 18, it is referred to particular Presbteries, and especially to the Ruling Elders therein, that the Expences of Commissioners to Assemblies be born conform to former Acts of Assemblies, by the particular Parishes in every Presbytery, and proportionally by all sorts of persons, able in land or money therein: which Act is ratified by the Assembly August 29th, 1639, and extended to the

pences bearing of such as shall be sent in Commission by General Assemblies: But it is referred to the Parliament for making these who are stented to pay their proportions: By which it is clear that Presbyteries may stint the people within their own Bounds, for defraying the charges of those therein, who attend General Assemblies: But then it must not be exacted, but only received from a willing condescending people, which will certainly be very unserviceable if otherways received, unless the expences be most inconsiderable. And the practice might prove more serviceable in a disturbed State of the Church, when Ministers come to be deprived of their Stipends. Since the Year 1642. our Sovereigns have bestowed four or five hundred pound Sterling Yearly, to be Imployed by General Assemblies, which will do much to defray the Expences of Commissions from General Assemblies, sent to visit the remoter parts of the Church, VID. Assembly August 5th, 1642.

§ 11. The General Assembly, by their 8th Act 1695, gives the Form after insert for a directory to Presbyteries in their giving Commissions to their Members for General Assemblies; which Form is likewise observed by Universities, each whereof sends one, as also Royal Burghs, MUTATIS MUTANDIS. At the day of Years, the which day the Presbytery of. Did, and Hereby does nominate and appoint Mr. A. B. Minister at C. Mr. D. E. Minister at F. and Ruling Elders their Commissioners to the next General Assembly of this Church, Indicted to meet at the day of next to come, or when or where it shall happen to sit, Willing them to Repair thereto, and attend at all the Diets of the same, and there to Consult, Vote and Determine in all Matters that come before them, to the Glory of God and Good of His Church, according to the Word of God, the Confession of Faith, and agreeable to the Constitutions of this Church, as they will be Answerable, and that they Report their Diligence therein at their Return there-from, Extracted by me, &c. And by the 6th Act of Assembly 1704, this Clause must be insert and added to the said Form of all Commissions, viz. That they have subscribed the Confession of Faith of this Church, according to the 11th Act of the General Assembly ANNO 1700.

The Stile of Commissions to General Assemblies.

§ 12. The Reason for Enacting this Uniform method, was that all members might be alike free: For before this time several Presbyteries did Insert, in their Commissions particular Instructions and Limitations, which did not a little muzzle and confuse the members, and might at some occasions have proved an advantageous handle for such as were not tender of the Churches peace.

The Reason for this Uniformity.

§ 13. By the 4th Act of Assembly 1694, Commissioners from Presbyteries and others are appointed to give in their respective

When Commissions are to be given in.

Commissions to the Clerk of the General Assembly, the Night at least before the first diet or meeting thereof, to the effect the Rolls may be timeously made up, and that the Commissions may be considered by the Assembly without any interruption: And all Commissions not so given in, shall be delivered in the Intervals, betwixt and the after-diets.

Commissioners are to be Elected forty Days before they meet; And Why?

§ 14. By the 6th Act of Assembly 1698, Presbyteries are appointed to choose their Commissioners to General Assemblies at least fourty days before the Sitting thereof: That which gave Rise to this Act was, that the Civil Authority, for some time before that, had been pleased, (though not agreeably to the Act of Parliament 1690, in favours of the Church) to interpose a privative power in adjourning General Assemblies to a longer time than the appointment of the preceeding Assembly, whereby their meetings were rendered both infrequent and uncertain: And with some view to obviate this, I think the Act hath been made, but yet especially that members might be in case to attend, being so long chosen before the time.

The Sovereign or their Commissioner honors the Assembly with their Presence, which tho' acceptable, is not essential to an Assembly.

§ 15. The General Assembly useth to be Honoured with the Sovereigns Presence, either by their Royal Person, or by their High Commissioner: For which the Moderator in the Assembly's Name doth use to express their Thankfulness, and how great a mercy they do esteem it to have the Countenance of Civil Authority. But there have been many General Assemblies begun, held and continued in Scotland, without either the King or his Commissioner's Presence: And that it was not, nor yet is contrary to Law, is Evident, if the first Act of Parliament one thousand five hundred ninety two, ratified in Parliament One thousand six hundred and ninety, be duely considered.

The first Commission was the King's Missive.

§ 16. The first Commission that was granted, was by King James the VI. Anno 1580, as may be seen in an old M. S. of the Acts of Assemblies, and was nothing else but a Missive Letter under the King's own Hand, the Tenor whereof follows. "Trusty and well Beloved Friends, We Greet You well. We have "directed towards You Our Trusty Friends the Prior of Pit-"tenweem, and the Laird of Lundie, Intrusted with Our Pow-"er for that Effect, for Assisting You with Their Presence and "Counsel in all Things that They may, tending to the Glory "of God, and the Preservation of Us and Our Estate, Desir-"ing You heartily accept them, and Our Good Will commit-"ted to Them for the present in Good Part. Sue We Re-"commend You to God's Blessed Protection. From our "Palace at Falkland, the 22d Day of July, 1580. JAMES R.

The Form now is more Solemn.

§ 17. But now these Commissions are more pompuous and solemn, passing in Latin under the Great Seal. Sometimes they have been complex, cloathing the Commissioners with somewhat of a Vice-Roy-ship in the State, as well as Commissioner to the Assembly: thus it is said the Marquis of Hamilton, and Earl

of Traquair's Commiſſions were in the year 1638 and 1639. The Commiſſions granted ſince the Revolution, you may ſee in the printed Acts of Aſſemblies. Though theſe Commiſſioners be reſpected in the Aſſemblies, and about the Aſſembly affairs, as repreſenting the Sovereign's Perſon; yet I doubt if they could claim any place or precedency in meetings of ſtate, meerly as Commiſſioners to the Aſſembly. But this is ſtill kept undecided, as appears by their diſappearing at ſuch meetings while the General Aſſembly is ſitting.

Preſbytery of Darien Repreſented.

§ 18. The Preſbytery of Caledonia in Darien, is authoriſed to ſend yearly two Repreſentatives to the General Aſſembly: they being a part of this National Church, and ſubject to her Aſſemblies, as appears from the inſtructions given them by the commiſſion of the General Aſſembly 1699.

The opening of the Aſſembly.

§ 19. The Moderator of the former Aſſembly opens it with a Sermon; but in caſe of his abſence, his predeceſſor in that Chair hath the Sermon: and in abſence of them both, the eldeſt Miniſter of the town where they meet preacheth, and openeth the Aſſembly by Prayer, and Moderates till a new Moderator be choſen. Thus it was done in the Aſſembly at Gloſgow 1638. After Sermon the Members go into the Aſſembly-houſe, where, after prayer by him who preached, a new Moderator is choſen in the manner before mentioned, their Clerk continuing by commiſſion, ſometimes during life. It is to be remembered that before the new Moderator is choſen, the Rolls muſt firſt be made up, and at the calling of each Preſbytery, Burgh and Univerſity, their commiſſion is read. After the Aſſembly is thus conſtitute, the preſon repreſenting the Sovereign, produceth their commiſſion to him for that effect, and ordinarily a letter alſo from the Sovereign to the Aſſembly, both which are publicly read with great honour and reſpect, the Members ſtanding all the time that the Letter directed to them is a reading; and by their appointment, both commiſſion and letter are recorded in their Books. And all the time of the Commiſſioner's preſence, the Members ſit diſcovered. The Commiſſioner ordinarly has a Diſcourſe to the Aſſembly, aſſuring them of their Majeſty's protection, and continued favour, and he intreats them to unanimity and diſpatch in their affairs; to which the new Moderator uſeth in name of the Aſſembly to make a ſhort and ſuteable return, both which are likewiſe Recorded.

The Order obſerved among the Members, and in the Aſſembly Houſe.

§ 20. By the Act of the Aſſembly, July 29th, 1640, it is appointed that the Commiſſioners ſit together unmixed, and the places where they ſit be divided from the ſeats of others. As alſo, that four perſons of reſpect have warrant to enjoin that there be no noiſe, no ſtanding, nor diſorderly behaviour: and if any ſhall diſobey them, or direct his Speech to any, except to the Moderator, and that one at once with leave firſt aſked and given, he is to be rebuked by the Moderator: and if he deſiſt not, he

is to be removed out of the Assembly for that Session. As also, that the minutes of ilk Session to be read before their rising, and if the matter concern the whole Kirk, let it be read in the beginning of the next Session. This Order is to be read the first Session of each Assembly, and the Act is ratified 28th July, 1641, and 6th August, 1642.

Committees of Assemblies; Their number & Way of being chosen.

§ 21. The ordinary Committees used in General Assemblies are, 1. The Committee for Overtures. 2. The Committee for Bills, References and Appeals. 3. The Committee for Election and Commissions. 4. Committes for revising Synod-Books and Registers, and of Commissions of General Assemblies. 5. A Committee for censuring of Absents, and nominating Ministers to preach before the Commissioner, if present. 6. When the King or Queen honours them with a Letter, there is in the first place appointed a Committee for drawing an answer thereto. There are also other Committees for particular matters, named as is found needful. All Committees of Assemblies are to consist of Ministers and Ruling Elders, members of several Synods, and in more numerous Committees, some out of every Synod: all which Committees are ordinarly named by the Moderator, in presence, and approved by tacit consent, only sometimes members propose the adding of some others, whose motion useth likewise to be acquiesced in: so that there hath never yet been any Election of Committees, either by Synods giving in separate lists, or by members giving in lists, as has been done in our late Parliaments. Only for preventing the perplexing of Assembly business, it is fit that no Member be put upon more Committees than one.

Committee of Overtures and others; their Power how restricted.

§ 22. Albeit no Business ought to come in to the Assembly directly, till it be proposed to, and prepared by some Committee to whom it properly belongs; Yet no Committee hath a Negative over the Assembly: and it was never their Intention to confine and Restrict themselves only to consider of these Matters which their Committees were pleased to allow and Transmit to their consideration: For by Act of Assembly, July 29th, 1640, An Overture (and from a Parity of Reason, a petition or any other thing) may be proposed in full Assembly with the Reasons thereof, after that the Committee hath refused to Transmit the same.

No Ecclesiastical Process to be printed without Allowance.

§ 23. To avoid altercations and debates in open Assembly, which might prove Dangerous, and are always very Indecent, after matters have been prepared by Committees, they are Transmitted to the Assembly. Now this Design and Order may be much struck at and inverted, when members or particular persons do print their Petitions or Overtures to the General Assembly and Nation, before they be orderly brought in. Therefore by the 17th Act of Assembly 1700, all Persons are discharged to presume to print any Petition, Appeal, Reasons, or answers, or

any part of any Proceſs to be brought in to the General Aſſembly, or any other Church Judicatory, without Leave given by them, with Certification that the ſame ſhall not be Read nor conſidered.

§ 24. It is the laudable cuſtom of Aſſemblies, before they begin cloſe to their Work, to appoint betwixt Nine and Twelve in the Fore-noon, to be ſet apart by the members for public Prayer in the Aſſembly-Houſe, to the Almighty God, for his countenancing and directing them in the matters that ſhall come before them: Where the Commiſſioner is likewiſe pleaſed to attend and join in Prayer: As may be ſeen in the firſt Three printed Acts of Aſſembly ſince the Revolution, and among the Indices of Unprinted Acts thereafter. A Diet for Prayer.

§ 25. Conform to antient cuſtom, by the 3d Act of Aſſembly 1702, all Synod Books are appointed to be punctually brought in and preſented to the General Aſſembly Yearly, in the beginning thereof: Which Books, after hearing a Report concerning them, from the Committee appointed to Reviſe them, the Aſſembly does approve or diſſallow thereof as they find Ground. All References from Synods, Appeals, Grievances, Petitions and Complaints are here examined and anſwered: Acts and conſtitutions for all the Churches are agreed upon with common conſent, conform to the 9th Act of Aſſembly 1697, of which hereafter about preventing of Innovations. Here courſe is taken for Planting of Churches with well Qualified Miniſters: Rules are ſet down, by which inferior Judicatories ſhall be directed in all their Proceedings. It is their Buſineſs to ſee that the ſmall part of the Patrimony of the Church yet remaining be preſerved and rightly applied. They join or diſjoin Pariſhes from Preſbyteries, and Preſbyteries from Synods: They Indict National Faſts and Thanks-givings: They are concerned to appoint fit Perſons and Methods for drawing up the Hiſtory of the Church; They alſo ought to take care that Works of Charity, for Suſtentation of the Poor, be promoted. By the wiſdom and authority of this Aſſembly, Gangrens of Errors and Diviſions are prevented, that they ſpread not againſt Truth and Unity. But they decline to meddle in theſe matters they judge Civil, as being incompetent to them, as may be ſeen by the INDEX of Unprinted Acts of Aſſembly 1690, Church Judicatories ought not to meddle formally with Civil Matters, no more than the State ought to meddle formally with Matters Eccleſiaſtic; but the object materially conſidered may be the ſame, and fall under conſideration, both of Church and State, in different reſpects. By the 5th Article of the 31 Chapter of our Confeſſion, Synods or Councils are to handle or conclude nothing but what is Eccleſiaſtical, and are not to intermiddle with Civil Affairs which concern the common-wealth, unleſs by way of Humble Petition in caſes Extraordinary, or by way of advice for Satisfaction of Matters treated in Aſſemblies.

Members of Assembly should have Tickets for Access.

Concerning ordering the Assembly House, the Commissioners to General Assemblies are to receive Tickets from the Magistrates of the Burgh where the Assembly sits at the delivery of their Commissions, whereby they may have ready access to the Assembly House; and this Act is renewed by the Assembly 1690, and is among the Unprinted Acts.

Absents from Assemblies how Censured.

§ 31. By that same Act, whatsoever Presbytery, Burgh or University shall not send Commissioners, is to be Summoned to the next General Assembly, to be Censured by them as they find reasonable. And by the 6th Act of Assembly 1699, such Commissioners as do not attend duely from the beginning and through the whole diets of the General Assembly, and the Committees which they may be put upon, not having a Relevant Excuse, may be Censured as the Assembly shall think fit.

The Stile of Acts of Assembly, and Petitions thereto; They must not run in the Magistrates Name.

§ 32. The Stile of Acts of the General Assembly, runs thus; The General Assembly appoints and ordains, and sometimes recommends. Their Acts should rather be like directions from the chair, than discourses from the pulpit. Though the Sovereign's Person be therein sometimes represented, yet his Name cannot be joined with the General Assembly in making of Acts, Because the Civil Magistrate considered as such, is neither Head nor Member of the Church, nor of any of her Judicatories, and it is the authority of the General Assembly of this National Church that can alone bind her Members. Which Authority doth not so properly consist in making of Laws, as it doth in declaring what their Lord and Master hath already appointed. And though Ecclesiastical Constitutions should be Enacted in the Sovereign's Name and Authority, yet these could never bind the Subjects as such, because the Legislative power is lodged in the Sovereign and Estates of Parliament, and in them only; Hence all Petitions to the General Assembly are only Addressed to the Moderator and Members thereof, and not to the Sovereign nor his Commissioner, though present: For Petitions can be presented to none, but to such as those in whose Name and Authority they are granted.

The authority of Assemblies & their Acts. The Pain of Disobeying & declining the same.

§ 33. By the Act of Assembly 20 December 1638, they ordain Presbyteries, and Provincial Assemblies to Conveen before them such as will not acknowledge that Assembly (and from a parity of Reason any other Assembly) nor acquiesce unto the Acts thereof, and to Censure them accordingly, and refractory Presbyteries are to be Summoned by the Commission to compear before the next General Assembly to abide their Trial; And by a Clause in the end of the 5th Act, Session 2d. K. W. and Q. Mary's Parliament, it is provided, that whatsoever Minister being conveened before the General Assembly or Representatives of this Church, or their Commissions, or the Visitors to be by them appointed, shall either prove contumacious in not

appearing, or be found guilty, and therefore cenſured, whether by Suſpenſion or Depoſition, they ſhall IPSO FACTO be ſuſpended from, or deprived of their Stipends and Benefices. And by the Book of Canons put in Form for the Government of the Church of Scotland, by the counſel and influence of Engliſh Biſhops, and approved in a Proclamation by King Charles I. dated at Greenwich, the 23d day of May, 1635, it is appointed, that National Synods called by His Majeſty's Authority, for Matters concerning the State of the Church in general, ſhall bind all perſons as well abſent as preſent, to the obedience of the Decrees thereof in Matters Eccleſiaſtical. And if any ſhall affirm or maintain that a National Synod ſo aſſembled ought not to be obeyed, he ſhall be Excommunicated till he publicly repent and revoke his Error.

Advocate or Procurator, Solicitor or Agent for the Kirk

§ 34. Beſide the Clerk of Aſſembly there uſeth to be an Advocate or Procurator for the Kirk choſen by them who was to adviſe them in Matters of Civil Right, and to plead what concerns the Right of the Church before Civil Courts, and in his Name Summons are raiſed before the Commiſſion of Parliament for Plantation of Kirks, or Lord's of Seſſion. The Agent or Solicitor for the Kirk is likewiſe Elected by the Aſſembly, and he Acts and Agents their Buſineſs in ſuch Order as they appoint him. Their Agent was priviſeged to be preſent at all the Meetings of that Commiſſion of Parliament, even when they acted with cloſs Doors. In the late Prelatic Times, the King's Solicitor was by His Patent conſtitute Solicitor for the Church too: But whether in this Government Her Majeſty's Advocate be alſo by his Patent conſtitute Advocate for the Church, is a Thing I cannot certainly aſſert. The Agent has the care put upon him of ſending Diſpatches to the ſeveral Preſbyteries.

The Adjourning & Diſſolving of aſſemblies and other Church Judicatories.

§ 35. All Church Judicatories at every Riſing appoint their next Sitting, ſo that their Meetings are not precarious and uncertain, but entirely and intrinſically, as to their time and frequency, lodged in the will and diſcretion of the plurality of the Members of Her Reſpective Judicatories. The Kirk-Seſſion, being properly the only Radical Church Judicatory, not conſiſting of Delegate, but of perpetual and fixed Members, cannot be at any time diſſolved, but by themſelves are adjourned from time to time: Albeit they uſe to begin and conclude the Number of their Seſſions, at and after the Preſbytery hath approved of their Proceedings. All Church Judicatories, but eſpecially this, were called Conſiſtories, where the Judges did ſtand in Adminiſtring Juſtice (VIDE Stair's INSTIT. p. 524) and even yet, their Moderators, Preſidents, or Prolocutors do ſtand, as the Mouth of their Meetings. Preſbyteries are Radical as to the Paſtors, and Delegate as to the Ruling Elders, (VIDE TIT. 12. § 1.) For the firſt Preſbytery after each ordinary Meeting of the Sy-

nod, when new Elections of Elders are returned, that Presbytery doth begin the first Session thereof, and so other Sessions of the same continue till the next Synod in ordinary be over. And Provincial Synods consisting of Presbyteries, they do in part dissolve twice a Year, and so the Synodical Sessions are counted from one ordinary Synod to the next ordinary Meeting of another Synod. But National Assemblies being Annual, and consisting all of Delegates, as hath been said, the Sessions thereof are counted from their first Meeting until they part and dissolve in the same place, at least by the constitutions and practice of this Church, until, and no longer than the ordinary time for a new Annual Assembly: For no doubt, an Assembly, if the Affairs of the Church so require, may Translate, and also continue their Meeting, as was done, ANNO 1641, but it necessarly dissolves before the Year. At the closing of every Session of the Assembly, the Moderator appoints the next Diet in presence, and with consent of the Members; Then He turns to the Commissioner and acquaints His Grace thereof, to which He ordinarly Answers, Be it so, Or, I am satisfied; Whereupon the Adjournment is intimated publicly at the Door by the Beddal, afterwards the Moderator closes with Prayer.

Committee for Reviising the Minutes & printing the Acts.

§ 36. At closing of the General Assembly, some few of their Number are nominated to Assist the Moderator and Clerk, in Reviising the Minutes and Proceedings of that Assembly, before the same be recorded in their Registers, and to determine what of their Acts are fit to be printed: But it were as proper for the Assembly to give orders therein, as the Acts are passed.

The Ordinary way of Dissolving Assemblies.

§ 37. All the Affairs which the Assembly could overtake, being brought to a close, the Moderator causeth read the Minutes of the last Sederunt, these of former Sederunts being always read at the beginning of each Session; Which being done, he discourseth to the Assembly concerning the good providence of God that brought them together, and in allowing them the countenance and protection of the Supreme Magistrate, and exhorteth the Members to faithfulness, loyalty and diligence in their Stations. The Moderator having understood the Mind of the Assembly from previous communings with the Members, as to the particular time and place of the next Assembly's Meeting, which Diet being concerted before also with the Commissioner, he doth in their Name represent the same to the King or Queen, or their Commissioner, if present, and upon their agreeing thereto, it is to be recorded and publicly intimate at the Door of the Assembly-House by their Order. The Commissioner agrees ordinarly thereto in these or the like words (to many offensive enough) I do in my Master's Name (or Her Majesty's Name) dissolve this Assembly, and in the same Name and Authority I appoint the next General Assembly to meet at such a Time and Place, which ordinarly is the same with that which the Moder-

ator in Name of the Assembly did represent. Then the Moderator closeth the Assembly with Prayer, singing of Psalms, and pronouncing of the Blessing.

How two Assemblies were dissolved in an extraordinary Manner, and their Behaviour in these Cases.

§ 38. Indeed when it happens that a Commissioner doth rather cross than countenance the Assembly, either by an abrupt and interrupting dissolution, or by not appointing the next Annual Assembly according to Law: In these Cases their Behaviour is different, as may appear in the two following Instances. The first was in the Assembly 1638, there the M. of H. His Majesty's Commissioner, having dissolved them after some few days sitting, both in the Assembly-House and by public Proclamation; They did notwithstanding (having protested against their dissolution) continue their Sitting till they ended the work they met for, and appointed the time for their next General Assembly, for which you will find their Apologetical Vindication in their printed Letter to the King. Another Instance is this, The E. of Lothian their Majesties Commissioner to the General Assembly 1692, He upon Saturday the 13th of February (the Assembly being met and constitute by Prayer) did immediately thereafter deliver himself as follows. "Moderator, what I said last had so little Success, that I intend to give you no more trouble of that Nature; Only this, you have now sate about a Month, which was a competent time both to have done what was the principal design in calling this Assembly, (of Uniting with your Brethren) and to have done what else related unto the Church, but His Majesty perceiving no great inclination among you to comply with his demands, hath commanded me to dissolve this present General Assembly. So I in their Majesties Name and Authority do dissolve this present General Assembly." Whereupon the Moderator asked his Grace, if this Assembly was dissolved, without naming a Diet for another? To this His Grace made return in these words, "His Majesty will appoint another Assembly in due time, wherewith you will be timeously advertised." Upon this, the Moderator desiring of His Grace, that he might be heard a few Words, His grace told him that he could not hear him as Moderator, but only as a private person: The Moderator answered, in whatever Capacity Your Grace pleaseth, I beg to be heard a few Words. His Grace replied, that as a private Man he might speak; Whereupon the Moderator delivered Himself as follows. "May it please Your Grace, This Assembly, and all the Members of this National Church, are under the greatest Obligations possible, to His Majesty, and if His Majesty's Commands to Us had been in any or all Our Concerns in the World, we would have laid Our Hands on Our Mouths and been silent: But they being for a Dissolution of this Assembly, without Indicting another to a certain Day: Therefore, (having been Moderator to this Assembly) in their Name they adhereing to me, I humbly crave leave to declare, that the

The Churches Intrinsick Power asserted.

Office-Bearers in the House of God, have a spiritual intrinsic power from Jesus Christ the only head of his Church to meet in Assemblies about the Affairs thereof, the Necessity of the same being first represented to the Magistrate. And further, I humbly crave, that the dissolution of this Assembly, without Indicting a new one to a certain day, may not be to the prejudice of our Yearly General Assemblies granted to Us by the Laws of this Kingdom." Here the Members rose up, and with one Voice declared their Adherence to what the Moderator had said; Whereupon the Moderator turning himself to the Assembly, Cried, Brethren, Let us Pray: But the Members by a general cry pressed to name a Diet for the next General Assembly, Whereupon the Moderator said, if they pleased, the next General Assembly might meet here at Edinburgh upon the third Wednesday of August 1693, and the Members did again with one Voice declare their Approbation thereof. Then the Moderator having ordered Silence, concluded with Prayer, and singing the CXXXIII Psalm, and pronouncing of the Blessing.

the church of Scotland's Judgement about the Churches Right to meet Synodically.

§ 39. In the end of the Act of Assembly 1647, approving the Confession of Faith, it is asserted, that it is always free to the Magistrate to advise with Synods of Ministers and Ruling Elders meeting upon Delegation from their Churches, either Ordinarily, or being indicted by his Authority occasionally, and PRO RE NATA. It being also free to assemble together Synodically, as well PRO RE NATA, as at the ordinary times upon Delegations from the Churches, by the intrinsic power received from Christ, as often as it is necessary for the Good of the Church to assemble, in case the Magistrate to the detriment of the Church with-hold or deny his consent, the Necessity of Occasional Assemblies being first Remonstrate unto him by humble Supplication, VIDE § 1. H, T.

TITLE XVI.

The Order of the Rolls of Church Judicatories, and Ranking of Church Office-Bearers. And of Her Registers.

Rolls of Kirk-Sessions, and Ranking of Elders.

§ 1. RULING Elders and Deacons in Church Sessions, regularly, should be Inrolled, called and take Place, according to the Seniority of their Ordination: But the Poverty of the Church being such, that there is no Maintenance or Benefice annexed to these Offices, therefore they use to be ranked according to their Secular Stations and employments: Only, Seniority of Ordination may be a Rule whereby Disputes for Precedency among Equals are to be decided.

How Ministers take Place of one another.

§ 2. All Ministers are Inrolled in Presbyteries, and have Place only according to the Seniority of their Ordination; A Presbyter labouring in the Word and Doctrine being the Highest Of-

fice in the Church, to be ſure no Office-bearer of an inferior Order will ever compete with him: and therefore a Miniſter of a later Ordination, albeit he have the Character and Station of Almoner or Chaplain to the Royal Family, or of being Hiſtoriographer, Principal, or Profeſſor of Theology, or Philoſophy in any Univerſity, yet he will not preſume thereupon to take place from one of a prior Ordination: Becauſe all theſe Stations and Characters, Eccleſiaſtically conſidered, are of an inferior Order to that of the Paſtor, unleſs he pretend unto it by virtue of Civil place and power, which is condemned in Paſtors as incompatible with their ſpiritual Function, by Aſſembly 1638, Decem. 19th, But the Order in which Miniſters deliver the Preſbyterial Exerciſes, is according to the Seniority of Erection of the Pariſh Churches where they Officiate.

Rolls of Synods, how Ordered.

§ 3. It is uſual to change the Order of the Roll every Synod, ſo that the Preſbytery that was firſt called in the Roll of the former Synod, is now called laſt (as was ſaid above) and that which was in the ſecond place is now called firſt: And the Members are called according to the Roll of each Preſbytery, preſented to the Clerk by the Moderators thereof, with the Ruling Elders therein Inſert. And though a Pariſh be Vacant, or the Miniſter thereof not preſent, yet the Ruling Elder for that Church-Seſſion, is to be called for and Inrolled. But thoſe who are againſt Ruling Elders being Supernumerary, to Miniſters in Judicatories may diſlike this. Yet if once a Judicatory fix on a Quorum, whereof always ſo many are to be Miniſters, though double their Number of Elders ſhould come and be preſent, there is nothing as yet to hinder them all from Voting.

No Act to hinder Elders to vote when they may be ſupernumerary to Miniſters.

Rolls of General aſſemblies.

§ 4. The Rolls of General Aſſemblies do begin with the Synod, which in the former Aſſembly was called in the ſecond place, leaving the Synod which was then firſt called, now laſt, by which rotation the equality is better preſerved, commiſſioners from Preſbyteries are placed in their commiſſions according to the Seniority of their Ordination. Next to them are Inrolled the Commiſſioners from Univerſities within the Bounds; and next to them ſuch as have Commiſſions from Royal Burghs therein. In General Aſſemblies, Ruling-Elders are called immediately after the Miniſters their Colleague Commiſſioners.

Minutes Reviſed & Signed before Extract or Recording.

§ 5. The firſt thing to be done at every Diet, after calling the Rolls, is the hearing the Minutes of the laſt Sederunt or Seſſion, Read, and till they be paſſed and allowed by the Judicatory, and alſo ſubſcribed by the Moderator, there ought no Extracts thereof to be given, nor, till then, ſhould it be warrantable for the Clerk to enter them into the Regiſter.

Clerk and Moderator a Check to one another

§ 6. In any thing wherein the Moderator or Clerk is particulary concerned, they ought in that caſe both to Subſcribe the Minutes, as the Privy Seal uſed to be appended to Charters, or the like paſſing the Great Seal in favours of the Keeper of the The Attor-

tation and Title of the Registers.

Great Seal. And at the Close of the Register of every General Assembly, and of each inferior Church Judicatory, when they are given in to be approved by their next immediately superior Judicatory. They bear, Here ends the Register of the Acts and Proceedings of from to Consisting of Pages. And this Attestation is to be Subscribed by the Moderator and Clerk: and every Record at the beginning is to bear its own proper Title, viz. The Register of the Acts and Proceedings of such a Judicatory, begun at - the day of &c.

Form of approving Church Registers runs in a Negative Stile.

§ 7. By the 9th Act of Assembly 1700, they appoint all Provincial Synods and Presbyteries, to be careful in Reviſing the Registers of the Judicatories under their immediate inspection, and that they appoint a competent Number of the most fit and experienced among them for that Work; and when they find nothing to challenge in any Register, they are to give it the attestation following. The Provincial Synod of having heard the Report of those appointed to Revise the Presbytery Book of and having heard their Remarks thereupon, and the said Presbytery's answer thereto: and it having been enquired by the Moderator, if any other had any complaints to make against the actings of the said Presbytery, and nothing appearing censurable, Ordered the Clerk to attest this in their Presbytery Book. And so for the Registers of Provincial Synods and Kirk Sessions, MUTATIS MUTANDIS: and also for the Registers of the Commissions of Assemblies, by the 8th Act of Assembly 1706, but if there be any thing truely censurable in the said Books with respect to Discipline, that it be Recorded as Censured, both in the Synod Book and Attestation.

Order in filling up Blanks, Delatings, Interlinings, and Omissions, in Registers.

§ 8. All Sentences and Acts are to be filled up in the records as all other things should be according to the prioririty of their being Voted or Agreed unto, and that although no Extract hath been, or perhaps ever may be called for. And when any thing is ommitted in the Body of a record, it may be written on the Margin, which the Moderator and Clerk must Subscribe again; When any thing is Delete, let it be marked Delete on the Margin, and Subscribed as the other, counting the Lines or words blotted out. But Interlinings are most improper, and derogatory to that Credit which a record should bear. Further, when any Blank is left in the record, and yet there is nothing wanting, it may be Scored, or which is more proper, filled up with (NIHIL HIC DEEST) which words may be lenthened or shortened according to the Bounds of the Blank. See the 9th Act of Assembly 1706.

The Registers how to be preserved.

§ 9. By the 11th Act of Assembly 1703, for the better Preservation of their Registers, they Enact and Appoint that there be Two authentic Copies thereof, both Subscribed by the Moderator and Clerk, one Copy whereof to lie in the Clerk's Cus-

tody, and the other Copy to be Sealed and laid in some Secure Place where the Assembly or Commission shall Appoint; As also, that a Subscribed Extract of the Proceedings of each General Assembly be sent a little after the rising thereof to the several Synods within this Church to be by them Recorded in a Book.

§ 10. As to the Stile of the Assemblies addresses and Letters to their Soveriegns, or Foreign Churches, and as to the Stile of their Letters to the Assembly both may be seen in their Printed Registers, as also these with the Records of their Commissions will evidence what Civilities the Church pays in congratulating and attending on the Ministers of State and other Great Men, thus they court their Favour, and Return them their Thanks, all done for the Benefite and Advantage of the present Church Establishment. Civilities paid by the Church.

TITLE XVII.

Of Visitation of Schools and Universities.

§ 1. ALL Schools and Colleges were to be Reformed, and none Admitted to Instruct the Youth privately or publicly, but such as should be Tried by the Visitors & Colleges of the Kirk, James VI. Par. 1. Cap. 11. And even under the late Prelacy, none were admitted to Teach in any public Schools without Licence from the Ordinary, Car. 2d. Par. 1. Sess. 2. Cap. 4. SUB FIN. And also by the Act of Assembly Decem. 17, 18. 1638, Art. 4. They Ratify the Acts of Assembly 1565, 1567, and 1595. Whereby Visitation of Colleges is to be by way of Commission from the General Assembly. And the principal Regents and Professors within Colleges; and Masters and Doctors of Schools, are to be Tried by them concerning the Soundness of their Judgement in Matters of Religion, their Ability for discharge of their calling, and the honesty of their conversation. It is no wonder the Church think herself much concerned, that these Seminaries of Learning be duely regulated, considering how much it tends to the increase of Christian Knowledge and Learning, and the Advantage of true Piety and Religion. By the General Assembly 1638, they grant Commissions for Visitation of the Colleges of Aberdeen and Glasgow. And the Assembly 1639, appoints Visitations of the Universities of St. Andrew's and Glasgow. Again the Assembly 1640, appoints Visitations of Glasgow and Aberdeen Colleges, as may be seen in the Index of the Unprinted Acts of these and Subsequent Assemblies. Visitations of Schools were appointed by Authority of the Assembly.

§ 2. The Power of Visitations of Universities, Colleges and Schools is now claimed by the Sovereigns to be their Undoubted Right and Prerogative, as is Evident from the Narrative of the Act of Parliament 1690, for the Visitation of Universities. Power of Visitation Claimed by the Sovereign. Visi-

Sort Powers and Work distinguished.

The Power granted to the Visitors by that Act, is only Executive or Judicative, and not Legislative, which neither can nor should be: For seeing the Trust wherewith the Legislators themselves are cloathed, is only personal, it cannot be Delegated to others, unless they receive Power from their constituents for that Effect and Purpose. But though their Power could be Delegated, it should not be done: For some designing and disaffected Members in such Commissions might so manage the plurality of a Quorum to Plant and Regulate these Nurseries of Church and State, as might pave the Way, and dispose the Nation more easily for some pernicious Revolution. The Visitors appointed in that Commission are both Members of Parliament and Ministers: The one Sort I think, is appointed to remove disloyal Teachers, and to consider the Foundations of these Semmaries with the Rents and Revenues thereof, and how the same have been managed, and to set down good Rules for the good Management thereof. And Ministers, I think, are Named, to take Trial if the Teachers be Erroneous, Scandalous, negligent, or insufficient, and for ordering the manner of Teaching; and thereupon present there humble advice to the statesmen: for authoritatively they cannot act without delegation from the Church. See the Title about Extraordinary Synods, § 1.

Who are Ordinarly the greatest Enemies to the Church Visitations.

§ 3. There is none will grudge the Church the exercise of this power of visiting Colleges, so much as those Masters, who have ground to fear that their insufficiency and negligence may come to be exposed and discovered upon an exact and judicious trial. Again, there are some factious Masters that desire only statesmen to be visitors, among whom they think some of their QUONDAM Disciples may be found who will be influenced to favour their ambitious or revengeful designs.

Presbyteries may yet Visit Grammar Schools twice a Year.

§ 4. As to Grammar Schools, the power of visiting them remains with Presbyteries: for by the 23d Act, Par. 1693, it is declared, that all School-Masters and Teachers of Youth in Schools, are and shall be liable to the trial, judgment and censure of the Presbyteries of the bounds for their sufficiency, qualifications and deportment in the said office. By the Act of Assembly, 7th Feb. 1645, they appoint that every Grammar-School be visited twice in the year, by visitors to be appointed by Presbyteries and Kirk-Sessions in land-ward Parishes, and by the Town-Council in Burghs with their Ministers: and where Universities are, by the Universites, with consent always of the patron of the Schools, that both the fidelity and diligence of the Masters, and proficiency of the Scholars in piety and learning may appear. Enquiry is also to be made if Masters be diverted from due attendance by any other employment. By the 13th Act, Assembly 1706, somewhat of the same nature is enjoined, viz. That Presbyteries visit Grammar Schools tiwce a year, by some of their own number.

§ 5. By the foresaid Act 1645, they appoint, that no School-Master be admitted to Teach a Grammer School in Burghs or other considerable Parishes, but such as, after Examination by the Ministers, Deputes of the Town and Kirk-Session, and Paroch (which is, I think, the Heritors) shall be found skilful in the Latine Tongue, not only for Prose, but also, for Verse, and shall be also approved by the Presbytery therein. Who Examine School-Masters at their Admission.

§ 6. By the foresaid Act, they appoint that at the time of every General Assembly, the commissioners directed thereto from Universities, meet and consult together for the advancement of Piety and Learning, and keeping of an uniformity in Doctrine and good Orders among the Universities, what they do this way is not to Bind the Universities, till it be presented to the General Assembly, and receive their authority, as may be gathered from the Assemblies Act, 18 June 1646. This of New is Enacted by the 6th Act of Assembly 1707. Corresponding of Universities

TITLE XVIII.

Of a General Council of Protestants.

§ 1. AS Provincial Assemblies may, and do correspond with other Provincial Assemblies, so may General Assemblies with the Assemblies of other Churches. In a Manuscript of the Acts of Assemblies, Edinburgh October 25. 1577, You will find that Casmer having written to the Queen of England, of a Council to be held at Magdeburgh, for Establishing the Augustane Confession: The Queen wrote thereof to the Regent in Scotland, who communicated her Letter to the Assembly, and desired they might send some of their Number to assist thereat. Whereupon the Assembly named Mr. Andrew Melvill, and some others. And some Ministers and Elders were sent from the General Assembly, to the Assembly of Divines at Westminister, in Order to carry on the Unity and Uniformity in Religion and Church-Government. It belongs in these cases to the Civil Powers of these Nations from which they go to take care that their charges be honestly defrayed. And the States in whose dominions the council is to be, use to grant a safe conduct to the Foreign Correspondents. VIDE in the Title of Gen. Assem. about the Church of Campyere. corresponding with Foreign Churches, such as Magdeburgh 1577, and Westminster 1643, the Expences & safe Conduct of Correspondents

§ 2. In the Book of Policy of the Kirk agreed unto ANNO 1581, They say, beside these Assemblies, there is another more General kind of Assembly, an Universal Assembly of the Church of Christ in the World, which was commonly called an Œcumenic Council, representing the Universal Church, which is the Body of Christ: Their warrant to meet, and the authority of their meeting must be as good and as great, with respect to National and General Assemblies or convocations, as the authe- The Authority of General Council.

rity of these are, with respect to Provincial Assemblies or Synods.

The manner of Convocating & Proportionating the representation

§ 3. If the Protestant princes and common-wealths would condescend and concert, that their should be a General Council at such a time and place; Then the National or rather Provincial Assemblies, at the appointment of their respective Sovereigns, might meet and delegate one Pastor and Elder for each Province consisting of an hundred Parishes. Only from each distinct Sovereignty, though consisting of less than fifty Parishes, there might be at least a representation of the Church therein by one Pastor and Ruling Elder.

Matters of faith almost agreed to already.

§ 4. Most of the Churches being already bound and obliged to own and maintain that CONFESSION OF FAITH, which they have by their Canons authorized and approved; And there being an universal harmony in the Doctrine contained in all the Confessions of the Reformed Churches; The work of a General Council as to matters of Faith, would, in all probability, be sweet and easy: And if in what relateth to the Worship, Discipline, or Government of the Church there should be some mis-understandings, God should even reveal this unto them. Nevertheless, whereto we have already attained, let us walk by the same rule, let us mind the same things, PHIL. iii. 15, 16.

Time of Meeting & President of this council

§ 5. If this Council were once met and constitute, and countenanced by the authority of their several Sovereigns, then they might appoint the time and place of their next Council, which might be every seventh Year; And let one from different Churches be chosen to the Chair at every New Council. To prepare the way for such a Catholic Meeting, it were fit in the mean time to have a correspondence kept among all the Churches. VID. § I. H. T.

The Benefit of this Sub-Ordination.

§ 6. In the subordination of these Assemblies, Parochial, Presbyterial, Provincial and National, the lesser unto the greater, doth consist the external order, strenth and stedfastness of the Church of Scotland. And when it shall please the Lord to make ready and dispose the nations for a General Council, then shall that beauty and strength appear more remarkably in the whole Catholic Church, which is the Body of Christ. Then should the Churches be established in the faith, increased in number daily; And as they went through the cities, delivering them, the decrees to keep, that were ordained of the Apostles and Elders, which were at that General Council, Acts xvi. 4, 5. They should give occasion to many to rejoice for the consolation. Such a time is rather to be wished than hoped for. VID. § I. TIT. I. H. LIB.

The End of the First Book.

BOOK II.

TITLE I.

Of Lecturing, Preaching, Catechising, Public Prayers before and after Sermon, Singing of Psalms, and Ministerial Benediction.

§ 1. BY the 15th Act of Assembly 1707, they declare that there are some innovations set up of late by Prelatists in their public Assemblies, which are dangerous to this Church, and manifestly contrary to the constant practice and known principle thereof, which is, that nothing is to admitted in the worship of God, but what is prescribed in the Holy Scriptures. Therefore they discharge the practice of all such innovations in divine worship within this Church, and Ministers are required to inform their people of the evil thereof. Nothing to be admitted in the Worship of God, but what is prescribed in Scripture

§ 2. All are to enter the Assembly in a grave and seemly manner, take their Seats or places without adoration, or bowing themselves towards one place or other. If any through necessity be hindered from being present at the beginning, they ought not when they come into the Congregation, to betake themselves to their private devotions, but reverently compose themselves to join with the Assembly in that ordinance of God, which is then in hand. Most of what is said on this Title, may be found in the Directory. How the Congregation doth Assemble.

§ 3. The Congregation being Assembled, the Minister, after Solemn Calling on them to the Worshipping of the Great Name of God is to begin with Prayer. The public Worship being begun, the people are wholly to attend on it: forbearing to read any thing, except what the Minister is then Reading or citing: much more are they to abstain from all private whisperings, conferences, salutations, or doing reverence to any person present, or coming in, as also from all Gazing, Sleeping, or other undecent Behaviour. Their Behaviour in the time of Worship.

§ 4. Reading of the Word in the Congregation, being a part of the public Worship of God (wherein we acknowledge our dependence upon him, and subjection to him) and one mean Sanctified, by Him for the Edifying of His People, is to be performed by the Pastors and Teachers, and Preachers Licensed by the Presbytery thereunto, who should (as EZRA and his companions did NEHEM. viii. 8.) Read in the Book, in the Law Why the Word is to be publickly read and by whom?

of God distinctly, and give the sense, and cause them to understand the Reading.

How much is to be read at a time, & the order of reading and expounding

§ 5. How large a portion is to be Read at once, is left to the wisdom and discretion of the Minister: But it is convenient that ordinarily one Chapter of each Testament be Read at every meeting, and sometimes more, where the Chapters be short, or the coherence of the matter requireth it. It is also requisite that all the Canonical Books be Read over in Order, that the people may be the better acquainted with the whole Body of the Scriptures, and where the Reading in either Testament endeth on one Lord's Day, it is to begin the next: The more frequent reading of such Scriptures is also commended, as he that readeth shall think best for edification of his Hearers, as the Book of Psalms and such like; and when he shall judge it necessary to Expound any part of what is read, that work is not to begin, until the reading of the whole Chapter or Psalm be ended.

When Lecturing begins & how long to continue according to old & later Acts

§ 6. Regard is always to be had to the time, that neither Preaching nor other ordinance be straitened or rendered tedious; Which rule is to be observed in all other public performances, and therefore, by the Act of Assembly Feb. 7th, 1645, for regulating of that exercise of reading and expounding the Scriptures upon the Lord's Day, mentioned in the Directory, they ordain the Minister and people to repair to the Church half an Hour before that Time, at which ordinarly the Minister now entereth to the public worship; And that that exercise of reading and expounding, together with the ordinary exercise of preaching be perfected and ended at the time, which formerly closed the exercise of public worship. And for recovering the Old Custom Established by the Directory, the General Assembly 1694, Sess. 9. appoints Ministers to read and open to the people some large and considerable portion of God's Word. And the diligence of Ministers in this is to be enquired into by Presbyteries at their privy censures, Assem. 1704, Sess. 8, and also at parochial visitations, Assem. 1706, Act 10.

Preaching its Excellency and subject matter.

§ 7. Preaching of the word being the Power of God unto Salvation, and one of the greatest and most excellent works belonging to the Ministery of the Gospel, should be so performed that the workman need not be ashamed, but may save himself and those that hear him. Ordinarily the Subject of his Sermon is to be some Text of the Scripture holding forth some principle or head of Religion, or suitable to the special occasion emergent. Or he may go on in some Chapter, Psalm or Book of the Scripture as he shall see fit. By the 8th Art. Cap. 3d, of our Confession of Faith, the doctrine of the high mystery of predestination is to be handled with special prudence and care. And albeit Mr. Turretine in his Instit. Theol. Loc. 4. Quæst. 6. maintains very warrantably, that it should be publicly taught, yet he thinks it a Subject more proper for the Schools than the Pulpits.

§ 8. The Introduction to the Text is to be brief and perspicuous, drawn from the Text it self or context, or some parallel place of Scripture. If the Text be long (as in hiſtories and parables ſometimes it muſt be) he is to give a brief Sum of it, if ſhort, a paraphraſe thereof, if need be; In both looking diligently to the ſcope of the Text, and pointing at the chief heads and grounds of doctrines which he is to raiſe from it. In analyſing and dividing his Text, he is to regard more the Order of Matter than of words, and neither to burden the memory of the hearers in the beginning with too many members of diviſion, nor to trouble their minds with obſcure Terms of Art. Introduction, Sum, and diviſion of the Text

§ 9. In raiſing Doctrines from the Text, his care ought to be; 1ſt, That the matter be the Truth of God, 2dly, that it be a Truth grounded on or contained in that Text, that the hearers may diſcern how God teacheth it from thence. 3dly, That he chiefly inſiſt upon theſe Doctrines which are principally intended, and make moſt for the edification of the hearers. The Doctrine is to be expreſſed in plain terms, or if any thing in it need explication, it is to be opened, and the conſequence alſo from the Text cleared. The parallel places of Scripture confirming the Doctrine are rather to be plain and pertinent than many; And if need be, ſomewhat inſiſted upon, and applied to the purpoſe in hand. The reaſons or arguments are to be ſolid, and, as much as may be, convincing. The Illuſtrations, of what kind ſoever, ought to be full of light, and ſuch as may convey the truth into the hearers hearts with ſpiritual delight. How Doctrines are to be Raiſed, Explained, Illuſtrated and Confirmed.

§ 10. If any Doubt obvious from Scripture or reaſon, or prejudice of the hearers, ſeem to ariſe, it is very requiſite to remove it, by reconciling the ſeeming differences, anſwering the reaſons, and diſcovering and taking away the cauſes of prejudice and miſtakes. Otherwiſe it is not fit to detain the hearers with propounding or anſwering vain or wicked cavils, which as they are endleſs, ſo the propounding and anſwering of them, doth more hinder than promote edification. What kind of Doubts & Controverſies are to be raiſed & ſolved.

§ 11. The Doctrine is to be brought home to ſpecial uſe by application to the hearers, that they may feel the word of God to be quick and powerful, and a diſcerner of the thoughts and intents of the heart. In the uſe of inſtruction or information in the knowledge of ſome truth, which is a conſequence from his Doctrine, he may, when covenient, confirm it by a few firm arguments, from the Text in hand, and other places of Scripture, or from the nature of that common place of divinity, whereof that truth is a Branch. In confutation of falſe Doctrines, he is neither to raiſe an old hereſy from the grave, nor to mention a blaſphemous opinion unneceſſarily, but if the people be in danger of an error, he is to confute it ſoundly, and endeavour to ſatisfy their Judgments and conſciences againſt all objection. In exhortation to Duties, he is, as he ſeeth cauſe to teach alſo Doctrines are to be applied in uſes of Inſtruction, Confutation, Exhortation, Reproof, Conſolation and Trial; and How?

the means that help to the performence of them. In dehortation, reprehenſion, and admonition, which requireth ſpecial wiſdom, he is, as need requires, not only to diſcover the nature and greatneſs of the ſin, with the miſery attending it, but alſo to ſhew the danger the hearers are in to be overtaken and ſurprized by it, together with the remedies and beſt way to avoid it. In applying comfort, whether General againſt all tentations, or particular againſt ſome ſpecial troubles and terrors, he is carefully to anſwer ſuch objections as a troubled heart and afflicted ſpirit may ſuggeſt to the contrary. It is alſo ſometimes requiſite to give ſome notes of Trial, which is very profitable, eſpecially when performed by able and experienced Miniſters, with circumſpection and prudence, and the ſigns clearly grounded on the holy Scripture, whereby the hearers may be able to examine themſelves, whether they have attained thoſe graces, and performed thoſe duties to which he exhorteth, or be guilty of the ſin reprehended, and in danger of the Judgment threatened, or are ſuch to whom the conſolations propounded do belong.

The Deſign of this Method.

§ 12. This Method is not preſcribed in the Directory, as neceſſary for every man, or upon every Text: Nor is it neceſſary to proſecute every doctrine which lies in the Text, and ſuch uſes as are wiſely to be made choice of, as by the Miniſter's Reſidence and converſing with his Flock he findeth moſt needful and ſeaſonable for them; But only it is recommended as a Method which hath in experience, been found much bleſſed of God, and very helpful for the peoples underſtanding and memories.

Catechetical Doctrine to be preached, and the nature of Catechizing.

§ 13. Miniſters are to preach Catechetical Doctrine, beſides their ordinary work of Catechizing, in ſuch manner as they find moſt conducive to the Edification of their Flocks, by Act of Aſſembly 1695, Seſſ. 17. This work of Catechizing, is a familiar way of inſtruction or Teaching, when the Scholar anſwers the Queſtion aſked. It is in a plain way to inſtruct thoſe of their charge in the firſt principles of the Chriſtian Religion. This was the apoſtolical way of Teaching the Churches at their firſt plantation, Heb. v. 12. and 6. 1, 2. 1 Cor. 3. 1, 2. This is the periphraſis of Paſtor and people, which the Holy Ghoſt uſeth, ſetting forth the Reciprocal Relation and Office betwixt them, Gal. vi. 6. "Let him that is taught," or Catechized, "in the Word, communicate unto him that teacheth," or Catechizeth, "in all good things." CATECHUMENI, was a word uſed by the Primitive Church, to ſignify ſuch as learned the principles of religion, and were not yet baptized, and ſince, ſuch as are Catechized, but who have not received the Lord's Supper. Theſe CATECHUMENI, were of two ſorts: One ſort was, of thoſe who had not acceſs to Baptiſm till they made public profeſſion of their Faith in Jeſus Chriſt, becauſe their Parents were Heathens, and themſelves Strangers to the Chriſtian Doctrine, ſuch were Catechized before Baptiſm. The other ſort

of CATECHUMENI was, the children of professed believers, who were Baptized when Infants, having a right to that seal by virtue of that promise made to believers and to their children; These after their Infancy was over, and they had been privately instructed in the principles of the Christian Religion, offered themselves to public Catechizing. Both these sorts, after they had made such proficiency in the knowledge of Religion, as thereupon they were admitted to the Lord's Table, they got the Name of PERFECTI.

None to teach publicly out of their own Bounds without leave.

§ 14. By the 25th Article Cap. 1. French Church Discipline, the Minister of one Parish cannot preach in another, without first obtaining leave of the Minister of that, unless in case of his absence. In which case it must be the consistory that invites him: And if the Flock be dispersed by reason of persecution or other trouble, the Stranger shall endeavour to assemble the Deacons and Elders, which if he cannot do, he shall nevertheless be permitted to preach to re-unite the Flock. And by the 20th Canon *Concilii sexti, in* Trullo, *Ne liceat Episcopo in alia, quæ ad se non pertinet, civitate publice docere; si quis autem hoc facere deprehensus fuerit, ab Episcopatu desistat, Presbyteri autem munere fungatur.*

Parochial catechizing is appoint'd to be weekly, not so Week-days Sermons.

§ 15. Every Minister is ordained to have Weekly Catechizing of some part of the Parish, and masters of Families are to Catechize their children and servants at home, whereof account shall be taken by the Minister and Elders assisting him in the Visitation of every Family, VIDE Act of Assembly August 30, 1639. And by the Act of Assembly July 30, 1649, the foresaid Act is renewed. I know no Act for Weekly Sermons, yet Weekly Preaching there is; Ministers it is true are appointed to preach every Lord's Day, both before and after-noon, Assem. 1648, Sess. 38. But there is none for Week-days Sermons, yet the one is observed, and the other too much in desuetude. By that Act 1649, Ministers are so to order their Catechetic Questions, as thereby, the people present may at every Diet have the chief heads of saving knowledge presented unto them. And by the same Act, every Presbytery is ordained to take Trial twice in the Year, whither all the Ministers be careful to keep Weekly Diets for Catechizing: And if any be found Negligent therein, they shall be admonished for the first Fault; And if after such admonition, they shall not amend, the Presbytery then shall rebuke them sharply: And if after such rebuke, they shall not yet amend, they shall be suspended. Ministers of Land-ward congregations are certainly to be exempted from this in Seed-time and harvest, and the Act is to be so understood.

Who are to be examined; How often & from what Age? With the

§ 16. All of every Quality are to be examined of whose knowledge Ministers are not certain (which clearly supposeth that a Minister being once satisfied with a persons knowledge is not obliged again to examine him) and young persons from the time

Use of Examination Rolls.

they are capable of instruction, which it seems, hath been thought to be about nine Years of Age, by the M. S. Acts of Assembly at Edinburgh 1570, but see Assem. 1648, Sess. 38, among remedies Ecclesiastical, in particular against ignorance. And Assem. 1646, Sess. 10, Remed. 9. Ministers are to have Rolls of their Parish, not only for examination, but for considering the several dispositions of the people, that accordingly they may be admonished and prayed for by them in secret.

Catechisms Larger and Shorter; Their Use in catechizing.

§ 17. The Larger and Shorter Catechisms agreed upon by the Assembly of Divines at Westminster, with assistance of commissioners from this Church, are by the Assembly 1648, July 28. and August 20, approved and appointed Directories, the Larger for Catechizing proficients in Religion, and the Shorter for Catechizing such as are of weaker Capacity. By the Act of Assembly 1649, Sess. 30, Sessions are to take care that in every Family, there be at least one copy of these Catechisms, Confession of Faith, and Directory for Worship.

A, B, C. Cachism & condemned.

§ 18. By the Act of Assembly July 28, 1648, they having found in a little Catechism printed at Edinburgh 1647, Intitled, the A, B, C. with the Catechism, that is to say, an Instruction to be taught and learned of young Children, very gross Errors in the point of Universal Redemption, and in the Number of the Sacraments, they do discharge the Selling, Using, and Re-printing thereof.

When a rebuke is to be given at catechizing.

§ 19. Some persons may be Rebuked at the time of Catechizing, who deserve more than a private Rebuke, and yet need not be brought to public Repentance, Assem. 1648, Sess. 38.

Of Public Prayers, & the Mind of the Directory about them

§ 20. The intention of the Composers of our Directory for public Prayer is expressed towards the end of their preface. Their own words are, our meaning therein being only that the general heads, the Sense and Scope of the Prayers and other parts of public Worship being known to all, there may be a consent of all the Churches in these things that contain the Substance of the service and worship of God, and the Ministers may be hereby directed in their administrations, to keep like soundness of doctrine and prayer, and may, if need be, have some help and furniture; yet so as they become not hereby slothful and negligent in stirring up the gifts of Christ in them: but that each one by meditation, by taking heed to himself and the flock of God committed to him, and by wisely observing the ways of Divine Providence, may be careful to furnish his heart and tongue, with further or other materials for prayer, as shall be needful on all occasions.

The present Custom of using the Lord's Prayer.

§ 21. The Directory for public prayer doth recommend that prayer which Christ taught his Disciples, to be also used in the prayers of the church: because it is not only a pattern of prayer, but is itself a most comprehensive prayer. I do think there are no public prayers used in our church, wherein the pe-

titions in the Lord's prayer, are not expreſsed throughout their prayers; though perhaps neither at the beginning, or concluſion, or all at once by way of form. But if any notwithſtanding, think fit to ſay it likewiſe all at once, the moſt proper time for that, ſome think, would be immediately before the other form uſed for the miniſterial Benediction. VIDE § 29. H. T.

§ 22. After reading of the word, and ſinging of the Pſalm, the Lord is to be called upon to this effect, viz. To acknowledge our great ſinfulneſs, firſt, by reaſon of original ſin, which, beſides the guilt that makes us liable to everlaſting damnation is the ſeed of all others ſins, hath depraved and poiſoned all the faculties and powers of Soul, and Body, doth defile our beſt actions, and were it not reſtrained, or our hearts renewed by grace, would break forth into innumerable tranſgreſſions, and greateſt Rebellions againſt the Lord, that ever were committed by the vileſt of the ſons of men. And next, by reaſon of actual ſins, our own ſins, the ſins of Magiſtrates, of Miniſters, and of the whole Nation, unto which we are many ways acceſſory. Which ſins of ours, receive many fearful aggravations, we having broken all the commandments of the holy, juſt, and good law of God, doing that which is forbidden, and leaving undone that which is enjoined, and that not only out of ignorance and infirmity, but alſo more preſumptuouſly againſt the light of our minds, checks of our conſciences, and motions of his own holy Spirit to the contrary. So that we have no cloak for our ſin, yea, not only deſpiſing the riches of God's goodneſs, forbearance, and long-ſuffering, but ſtanding out againſt many invitations and offers of grace in the goſpel. To bewail our blindneſs of mind, hardneſs of heart, unbelief, inpenitency, ſecurity, backwardneſs, barrenneſs, our not endeavouring after mortification, and newneſs of life, nor after the exerciſe of godlineſs in the power thereof, and that the beſt of us have not walked ſo ſteadfaſtly with God, kept our garments ſo unſpotted, nor been ſo zealous of his glory, and the good of others as we ought, and to mourn over ſuch other ſins as the congregation is particularly guilty of, notwithſtanding the manifold and great mercies of our God, the love of Chriſt, the light of the goſpel, and reformation of religion, our own purpoſes, promiſes, vows, ſolemn convenants, and other obligations to the contrary. To acknowledge and confeſs that as we are convinced of our guilt, ſo out of a deep ſenſe thereof, we judge ourſelves unworthy of the ſmalleſt benefits, moſt worthy of God's fierceſt wrath inflicted upon the moſt rebellious ſinners, and that he might juſtly take his kingdom and goſpel from us, plague us with all ſorts of ſpiritual and temporal judgments in this life; and after caſt us into outer darkneſs. Notwithſtanding all which, to draw near to the throne of grace, incouraging ourſelves with hopes of a gracious anſwer of our prayers in the riches and al-

Of public Prayers before ſermon, taken out of the Directory for publick Worſhip, agreed unto by the General Aſſembly 1645.

ſufficiency of that only one oblation, the ſatisfaction and interceſſion of the Lord Jeſus Chriſt, at the Right-Hand of his Father and our Father, and in confidence of the exceeding great and precious promiſes of mercy and grace in the new covenant, through the ſame mediator thereof, to deprecate the heavy wrath and curſe of God, which we are not able to avoid or bear, and humbly and earneſtly to ſupplicate for mercy in the free and full remiſſion of our ſins, and that only for the bitter ſufferings and precious merits of that our only Saviour Jeſus Chriſt. That the Lord would vouchſafe to ſhed abroad his love in our hearts by the Holy Ghoſt; Seal unto us by the ſame ſpirit of adoption, the full aſſurence of our pardon and reconciliation; Comfort all that mourn in Zion, ſpeak peace to the wounded and troubled in ſpirit, and bind up the broken hearted: And as for ſecure and preſumptuous ſinners, that he would open their eyes, convince their conſciences, and turn them from darkneſs unto light. To pray for ſanctification by his Spirit, the mortification of ſin dwelling in, and many times tyrannizing over us, the quickning of our dead ſpirits, with the life of God in Chriſt, grace to enable us for all duties of our converſation, and callings towards God and men, ſtrength againſt temptations, the ſanctified uſe of bleſſings and croſſes, and perſeverance in faith and obedience unto the end. To pray for the propagation of the goſpel and kingdom of Chriſt to all Nations, for the converſion of the Jews, and the Fullneſs of the Gentiles, the Fall of Antichriſt, and the Haſtening of the ſecond coming of our Lord: for the deliverance of the diſtreſſed Churches abroad, from the tyranny of the Antichriſtian Faction, and from the cruel oppreſſions and blaſphemies of the Turk; For the bleſſing of God upon all the Reformed Churches, eſpecially upon the Churches and kingdoms of Scotland, England and Ireland, more particularly for that Church and kingdom whereof we are Members, that therein God would eſtabliſh peace and truth, the purity of all his ordinances, and the power of godlineſs, prevent and remove hereſy, ſchiſm, profaneneſs, ſuperſtition, ſecurity and unfruitfulneſs under the means of grace, heal all our rents and diviſions, and preſerve us from breach of our ſolemn Covenant. Prayers are to be put up for all in ſupreme authority, and thoſe in ſubordinate authority to them, 1 Tim. ii. 1, 2, 4. Which Prayers are to be directed by their circumſtances. We are to Pray for all Paſtors and teachers, that God would fill them with his Spirit, & make them powerful in their Miniſtery, and give unto all his people Paſtors according to his own heart; For the Univerſities and Schools, and religious Seminaries for Church and common-wealth, that they may flouriſh more in learning and piety, for the particular City or Congregation, that God would pour out a bleſſing upon the Miniſtry of the word, Sacraments and Diſcipline, upon the Civil Government, and all the Families and perſons therein; For mercy

to the afflicted in any inward or outward diſtreſs; For ſeaſonable weather, and fruitful ſeaſons, as time may require: For averting Judgments that we either feel or fear, or are liable unto, as famine, ſword, peſtilence, and ſuch like. To Pray earneſtly for his grace and effectual aſſiſtance to the ſanctification of His holy Sabbath, the Lord's-day, in all the duties thereof, that the Lord who teacheth to profit, would graciouſly pleaſe to pour out the Spirit of grace, together with the outward means thereof, cauſing us to attain ſuch a meaſure of the excellency of the knowlege of Chriſt Jeſus our Lord, that we may account all things but as droſs, in compariſon of Him, and that we taſting the firſt-fruits of the glory to come, may long for a more full and perfect communion with Him. That God would in ſpecial manner furniſh His Servant now called to diſpence the Bread of Life unto His Houſhold, with wiſdom, fidelity, zeal and utterance, that he may divide the word of God aright, to every one his portion, in evidence and demonſtration of the Spirit and power, and that the Lord would circumciſe the ears and hearts of the hearers to hear in love, and receive with meekneſs the ingrafted word, ſtrengthen them againſt the temptations of Satan, the cares of the world, the hardneſs of their own hearts, and whatſoever elſe may hinder their profitable and ſaving hearing.

Public Prayers after Sermon.

§ 23. The Sermon being ended, the Miniſter is to give thanks for the great love of God in ſending of his Son Jeſus Chriſt unto us, for the communication of his Holy Spirit, for the light and liberty of the glorious goſpel, for the admirable goodneſs of God, in freeing the land from Anti-chriſtian darkneſs and tyranny, for the reformation of religion, and many temporal bleſſings: and to pray for the continuance of the goſpel, and all ordinances thereof in their purity, power and liberty: and to turn ſome of the moſt uſeful heads of the Sermon into ſome few petitions, and to pray that it may abide in the heart, and bring forth fruit in the life and converſation. To pray for preparation for death and judgment, and a watching for the coming of our Lord Jeſus Chriſt; to intreat of God the forgiveneſs of the iniquity of our holy things, and the acceptation of our ſpiritual ſacrifice, through the merit and mediation of our Great High Prieſt and Saviour, the Lord Jeſus Chriſt.

The meaning of the Directory.

§ 24. Notwithſtanding of the above Directory for public Prayers, the Miniſter may (as in prudence he ſhall ſee meet) make uſe of ſome part of theſe petitions after the Sermon, or he may offer up to God ſome of the thankſgivings in his Prayer before Sermon.

Of Singing of Pſalms, and the Authority of the preſent paraphraſe.

§ 25. By the Act of Aſſembly, Aug. 6th, 1649, their Commiſſion being impowered to emit the Paraphraſe of the Pſalms, and eſtabliſh the ſame for public uſe, they did accordingly conclude and eſtabliſh the Paraphraſe of the Pſalms in Metre, now uſed in this Church, after the Preſbyteries had ſent their animadverſions thereupon.

Singing is not to be interrupt'd by reading of the Line.

§ 26. It was an ancient practice of the Church, as it is yet of some Reformed Churches abroad, for the Minister or Precentor to read over as much of the Psalm in Metre together, as was intended to be Sung at once, and then the harmony and melody followed without interruption, and people did either learn to read, or get most of the Psalms by heart; but afterwards it being found, that when a new Paraphrase of the Psalms was appointed, it could not at first be so easy for the people to follow, then became it customary, that each line was read by itself, and then sung. But now having for so long a time made use of this Paraphrase, and the number of these who can read being increased, it is but reasonable that the ancient custom should be revived, according to what is insinuated by the Directory on this subject. And that such who cannot read may know what Psalms to get by heart, let such be affixed on some conspicuous part of the Pulpit as are to be sung in public at next meeting of the congregation. It were to be wished that masters of families would pave the way for the more easy introducing of our former practice by reviving and observing the same in their family worship.

Scripture Songs to be used in Families, and prepar'd for public Use.

§ 27. In the 38 Sess. of Assem. 1648, there is an Act for examining the Labours of Mr. Zachary Boyd, upon the other Scriptue-Songs. And by Assem. 1706, Sess. 4. the Scripture-Songs by Mr. Patrick Sympson, Minister at Renfrew, are recommended to be used in private Families: and in order to prepare them for the public use of the Church, this was renewed in Assem. 1707, and by the 15 Act of Assem. 1708, their Commission is instructed and appointed to consider the printed Version of the Scriptue Songs, with the remarks of Presbyteries thereupon, and after examination thereof, they are authorised and impowered to conclude and emit the same, for the public use of the Church: the present Version of the Psalms having been ordered in the same manner, in the year 1649.

The design & Intention of the Soul in Singing.

§ 28. Though a Believer be afflicted, yet he is to sing since it is such a duty as prayer is, tendeth to cheer the soul's disposition, and to sweeten and mitigate the cross unto it. Complaints of our sins and failings may be mournful Songs. And because God hath redeemed, pardoned and comforted others; therefore we are to rejoice in the hope and desires of the same to ourselves. Though the subject of a song doth not always quadrate with our case, yet unto a judicious attentive person there is always some attribute of God, some providence or word of His, in that very subject to be praised. In the imprecatory Psalms, we sing to the praise of Divine justice, against the malicious enemies of His Church, like unto these that the Psalmist did aim against.

Ministerial benediction

§ 29. The Minister useth to dismiss the Congregation with a solemn Blessing or Prayer to God for them, which ordinarily is in these or the like words, 2 Cor. xiii. 14. "The Grace of the

"Lord Jesus Christ, the Love of God the Father, and the "Communion of the Holy Ghost be with you all, Amen;" but when Probationers for the Ministery are preaching, they use to pronounce the Blessing with this variation, instead of "be with You," they say, "be with Us." And the Moderators of General Assemblies observe the same stile in pronouncing of the Blessing at their dissolution. Yet seing no Minister of a Congregation, doth put up that public Prayer alone, it would therefore seem, it should always run in the ordinary stile of other Congregational Petitions, viz. "Be with Us."

§ 30. Ministers their Bowing in the Pulpit, though a Lawful Custom, is hereafter to be laid aside, for satisfaction of the desires of the Synod of England, February 7th, 1645.

Bowing in the pulpit to be laid aside

TITLE II.

Of Family Worship.

§ 1. BY Act of Assembly 24th, August 1647, revived Assembly 1694, they approve of the following rules and directions, for private and secret Worship, and mutual edification, for cherishing Piety, maintaining Unity, and avoiding Schism and Division. And Ministers and Ruling Elders are required to make diligent search in the congregation, whether there be among them any Family which neglects to perform Family Worship; And if any such be found, the head of the Family is first to be admonished privately, to amend his Fault, and in case of his continuance therein, he is to be gravely reproved by the Session: After which reproof, if he be found still to neglect Family Worship, let him be suspended from the Lord's Supper.

Habitual Neglectors of Family Worship Censurable by Suspension from the Lords Table.

§ 2. The Head of every Family is to have a care, that both themselves and all within their charge be daily diligent in performing of secret worship, and be given to Prayer and meditation.

Secret Worship to be performed.

§ 3. The ordinary Duties of Families conveened for the exercise of piety are these, first, Prayer and Praises; next reading of the Scriptures, with Catechizing in a plain way together, with Godly Conferences, as also admonitions and rebukes upon just reasons.

What Family Worship is.

§ 4. The Master of a Family though of the best Qualifications, is not to take on him to interpret the Scriptures; Yet it is commendable, that, by way of conference, they make some good use of what hath been read and heard. As for example, if any sin be reproved in the word read, use may be made thereof, to make all the Family Circumspect and Watchful against the same; Or, if any Judgment be threatened, or mentioned to have been inflicted in that portion of Scripture which is read, use may be made, to make all the Family fear, lest the same or a worse Judgment befal them, unless they beware of the sins that

Reading of the Scriptures to be Improv'd in Family-conference.

procured it. And finally, if any duty be required, or comfort held forth in a promiſe, uſe may be made to ſtir up themſelves to implore Chriſt for ſtrength to enable them for doing commanded duty, and to apply the offered comfort; In all which the Maſter of the Family is to have the chief hand, and any Member of the Family may propound a Queſtion or Doubt for Reſolution.

Chaplains their Uſe & Abuſe.

§ 5. Perſons of Quality are allowed to entertain one approved by the Preſbytery for performing the worſhip of God in their Families. And in other Families where the head is unfit, one conſtantly reſiding in the Family, and approved by the Miniſter and Seſſion may be employed in that Service. Yet it was never the mind of the Church, that Perſons of Quality ſhould lay their Family Worſhip entirely upon their Chaplains, and never perform it in their own perſons, as appears from the ſolemn acknowledgement of ſins, where they confeſs, the ignorance of God and of his Son prevails exceedingly in the Land; The greateſt part of Maſters of Families amongſt Noblemen, Barons, Gentlemen, Burgeſſes and Commons, neglect to ſeek God in their Families, and to endeavour the Reformation thereof; And albeit it hath been much preſſed, yet few of our Nobles and great Ones ever to this day could be perſuaded to perform Family-duties themſelves, and in their own perſons, which makes ſo neceſſary and uſeful a duty to be diſregarded by others of inferior Rank; Nay, many of the Nobility, Gentry and Barons, who ſhould have been examples of godlineſs and ſober walking unto others, have been ring-leaders of exceſs and rioting.

No meer Stranger to perform Family Worſhip.

§ 6. Conſidering that perſons aiming at diviſion may be ready to creep into houſes, and lead captive ſilly and unſtable Souls: For preventing whereof, no idler who hath no particular calling, or vagrant perſon, under pretence of a calling, is to be ſuffered to perform Worſhip in Families. The not obſerving of this direction, hath been of ſad conſequence to ſome Families in this Land in the late times. Neither are perſons from divers Families, to be invited or admitted into Family-Worſhip, unleſs it be theſe who are lodged with them or at meat, or otherwiſe with them upon ſome lawful occaſion.

Set Form for Prayer in caſes of neceſſity allowed.

§ 7. So many as can conceive Prayer, ought to make uſe of that Gift of God; albeit thoſe who are rude and weaker may begin with a ſet form of Prayer, but ſo as they be not ſluggiſh in ſtirring up in themſelves the ſpirit of Prayer, which is given to all the Children of God in ſome meaſure.

Materials for Family Prayer.

§ 8. Let them confeſs to God how unworthy they are to come into His preſence, and how unfit to worſhip His Majeſty, and therefore earneſtly aſk of God the Spirit of prayer. They are to confeſs their ſins and the ſins of the family, accuſing, judging and condemning themſelves for them, till they bring their Souls to ſome meaſure of true humiliation; they are to pour out their Souls to God in the name of Chriſt, by the Spi-

rit, for forgiveneſs of ſins, for grace to reprent, to believe, and to live ſoberly, righteouſly and godly, and that they may ſerve God with joy, and delight in walking before Him; they are to give thanks to God for His many mercies to His people and to themſelves, and eſpecially for His love in Chriſt, and for the light of the goſpel: they are to pray for ſuch particular benefits, ſpiritual and temporal, as they ſtand in need of for the time: they ought to pray for the Church of Chriſt in general, for all the Reformed Churches, and for this Church in particular, and for all that ſuffer for the name of Chriſt, for all ſuperiors, for the Queen's Majeſty, and inferior Magiſtrates: for the Magiſtrates, Miniſters, and whole body of the congregation: and for their neighbours abſent about their lawful affairs, and for theſe that are at home. The Prayer may be cloſed with an earneſt deſire that God may be glorified in the coming of the kingdom of His Son, and that what they have aſked according to His wil may be done.

Faſts and Thankſgiving Days in Families.

§ 9. Extraordinary duties both of humilition and thankſgiving are to be carefully performed in families, when the Lord by extraordinary occaſions, private or public, calleth for them.

Travellers are to Worſhip together.

§ 10. Perſons of divers families being abroad upon their particular vocations, or any neceſſary occaſions, are to take care that the duties of prayer and thankſgiving be performed by ſuch as the company ſhall judge moſt fit.

Church officebearers to be depoſed who neglect Family Worſhip.

§ 11. By an Act of Aſſembly 1697, Seſſ. 5. ſuch Elders and Deacons as obſtinately refuſe or neglect family-worſhip by themſelves or others appointed for that end, are to be removed from their office.

TITLE III.

Of Baptism.

What Baptiſm is.

§ 1. BAPTISM is a Sacrament of the New Teſtament, wherein Chriſt hath ordained the waſhing with water in the Name of the Father, Son, and Holy Ghoſt, to be a ſign and ſeal of ingrafting into himſelf, and of partaking of the benefits of the Covenant of Grace, and whereby the prrties baptized are ſolemnly admitted into the viſible Church, and enter into an open and profeſſed engagement to be only and wholly the Lord's.

And to whom to be adminiſtred

§ 2. The viſible Church which is Catholic or Univerſal under the goſpel, conſiſts of all theſe throughout the world, that profeſs the true religion, together with their children: and Baptism is not to be adminiſtred to any that are out of the ſame, they being ſtrangers to the Covenant of Promiſe, till they profeſs their faith in Chriſt, and obedience to Him: but Infants deſcending from parents, either both or but one of them, profeſſing faith in Chriſt and obedience to Him, are in that re-

ſpect within the Covenant, and to be Baptized. The Directory for Worſhip ſays, that Children of profeſſing parents are Chriſtians and federally holy before Baptiſm, and therefore are they Baptized: for their Baptiſm ſuppoſeth them to be Church Members, and doth not make or conſtitute them ſuch. And therefore the practice of denying Burial among Chriſtians unto Children unbaptized, is unagreeable to this doctrine, and is moſt unwarrantable: if we conſider, that the Sacraments are ordinances to be adminiſtred in the Church, and to the Church, they neceſſarily ſuppoſe the pre-exiſtence of the Church, and the Child's previous right to that Seal.

The Engagement of Parents in Baptiſm binds their Children.

§ 3. By that Covenant whereof Baptiſm is a Seal, the Lord promiſeth to be our God, and we are in His promiſed ſtrength to engage to be His people, which engagement, though Chriſtian Infants be not capable to come under of themſelves, formally; yet by their parents vowing in their name and ſtead, they do thereby become abſolutely bound to the performance thereof, becauſe their obligation and duty to be the Lord's, were ſuppoſed, and previous unto their being Baptized.

When another Sponſor than the Parent is neceſſary.

§ 3. When both Parents are dead, or neceſſarily abſent, another Sponſor is to be taken; or when they are ſcandalous and erroneous, and thereby give ground to think they are none of Chriſt's, and for which they may merit the higheſt cenſures of the Church, if not prevented by evidences of their ſincere repentance: in that caſe, to teſtify that it doth not appear that the children have any right unto the privilege of that ſealing ordinance through their immediate parents; and that they may notwithſtanding have a right thereto by their more remote parents, it is neceſſary that a Sponſor preſent the children, and engage for them. The Parent is to be required to provide ſome fit Perſon, and, if it can be, one related as a Parent to the Child, ſhould be Sponſor. Yet it ſeems ignorant Parents are to be admitted to preſent their Children: for by Act of Aſſembly, 1648, Seſſ. 38, Art. 3, of domeſtic remedies of the ſins of the land, this is one, that perſons to be married, and who have children to be Baptized, who are very rude and ignorant, be ſtirred up and exhorted, as at all times, ſo eſpecially at that time, to attain ſome meaſure of Chriſtian knowlege in the grounds of religion, that they may give to the Miniſter, before the Elder of the bounds where they live, ſome account of their knowlege, that ſo they may the better teach their family and train up their children.

When the Seſſion ſhould be Sponſor.

§ 5. In caſe of children expoſed, whoſe Baptiſm, after enquiry, cannot be known, the Seſſion is to order the preſenting of the Child to Baptiſm, and the Seſſion itſelf is to ſee to the Chriſtian education of the Child: as alſo, when ſcandalous parents cannot prevail with any fit perſon or rather relation, to preſent the Child in their name, or when the relations of deceaſ-

ed parents refuse to become their Sponsors: the Session then is to order as is said. The Magistrate is to take care that exposed Infants be maintained, by laying the expences thereof upon the Parish proportionally. By the 84 Canon. Con. 6 in Trullo, *Canonicas patrum leges sequentes, de Infantibus quoque Decernimus, Quoties non inveniuntur firmi testes qui eos absque ulla Dubitatione Baptizatos esse dicant, nec ipsi, propter ætatem de sibi tradito Mysterio apte respondere possint, debere absque ulla offensione Baptizari.*

§ 6. By the 4th Article, Cap. 11. of the French Church Discipline, the Children of Fathers and Mothers of the Romish Church, and of excommunicated persons, cannot be admitted in the Church, though they were presented by believing Sponsors, unless their Fathers and Mothers consent to it, and desire it, in quitting and yeilding up to the Sponsors their right as to instructing them: For Baptism being a Privilige and Benefit, it is not to be imposed, nor Children Baptized against their Parents will, into a communion whereof they are not Members; Hence the custom of the Church, at administring of Baptism, is, to ask the Parent or Sponsor, if they present that Child to be Baptized, to which they declare their willingness by their answering affirmatively. By the 10th Act of the said 11. Chapter, these who present Children to be Baptized, must be, at least, Fourteen Years of age, having received the Sacrament of the Lord's Supper, and if they have not, that they promise faithfully to use their Endeavours to prepare for it. Baptism not to be imposed, the Age & Qualifications of a Sponsor.

§ 7. When single persons or Families remove unto other congregations, they cannot regularly there be admitted unto the Benefit of the Sacraments for themselves or Children, till they produce a declaration of the Church from which they came, testifying them to be free of any known Scandal, otherways these Holy Things may be profaned, contrary unto that Church Practice and Precept, SACRA SACRIS, of which Testimonials there should a Register be kept, and they run in this Form, "These are to "Testify, that the Bearer hereof hath lived in this Parish "of preceeding last by past. During which Space "he behaved himself Civilly and Honestly, free of all Church "Censure, or public Scandal known to us. This given by com-"mand of the Church Session of the said Parish. At "the day of Years, By A. B. Session Clerk. The Use, End, and Form of Testimonials.

§ 8. This Testimonial Imports, that the person attested is not PER FAMAM CLAMOSAM, or notarly Scandalous, through error or immorality; But it doth not suppose him to have a competent measure of knowledge, for that is left to the Trial and Enquiry of the Church, to which he seeks to be added as a Member: Therefore their Judgement is never anticipate by any such clause, Their Import, & how and why different from testimonials in order to the Lord's Supper.

unleſs in Teſtimonials for perſons deſiring the Benefit of the Lord's Supper in another Pariſh, where the Paſtor thereof cannot then get time to examine all ſtrangers. It is true, when mens lives and meaſure of knowledge are generally believed to be good and competent, this order as to ſuch, may be diſpenſed with, yet it were to be wiſhed that even thoſe would obſerve it, and not give occaſion to others, not ſo good or knowing, to be angry, when they are reſtricted or obliged unto it. VID. Part 3. TIT. 20. § 3.

Form of Baptiſmal engagement

§ 9. In the Baptiſmal Engagement the Parent or Sponſor, is in Name of the Child, to Renounce the Devil and all his works, the vain Pomp and Glory of this wicked world, and all the ſinful Luſts of the Fleſh. He is to promiſe to bring up the Child in the knowledge of the grounds of the Chriſtian Religion, as they are contained in the Holy Scriptures of the Old and New Teſtament: And laſtly, he is to bring up the Child in that holy life and practice which God hath commanded in his word. The Engagements to be given in Name of Children at Baptiſm, ſhould be expreſt in theſe or the like general terms, conform to the Directory for Worſhip, approven by the General Aſſembly, 7th February 1645, the due obſervation whereof is ſeriouſly recommended by the 10th Act of Aſſembly 1705.

The Form of Miniſtration of baptiſm & the Prayer.

§ 10. The Sacrament of Baptiſm is to be adminiſtrate in the face of the congregation after Sermon, and before pronouncing of the Bleſſing, (See Act of Aſſembly 7th Feb. 1645.) The Child to be Baptized, after Notice given to the Miniſter the day before, is to be preſented, the Paſtor remaining in the ſame place where he hath preached, and having Water provided in a Large Baſon; He is before Baptiſm to uſe ſome words of inſtruction, touching the Author, Inſtitution, Nature, Uſe, and end of this Sacrament: He is alſo to admoniſh all that are preſent to repent of their ſins againſt their Covenant with God, and to Improve and make the right uſe of their Baptiſm: Next, the Parent, or Sponſor, is to be Exhorted to order his converſation aright, and walk circumſpectly, then he is to be engaged in the words of the Form above, This being done, Prayer is alſo to be joined with the word of inſtitution, for Sanctifying the Water to this Spiritual uſe. The Prayer is to this or the like Effect, That the Lord, who hath not left us as ſtrangers without the Covenant of promiſe, but called us to the privileges of his ordinances, would graciouſly vouchſafe to ſanctify and bleſs his own ordinance of Baptiſm at this time: That he would join the inward Baptiſm of his Spirit with the outward Baptiſm of Water; Make this Baptiſm to this Infant a Seal of adoption, regeneration, and eternal life, and of all other promiſes of the Covenant of grace; That the Child may be planted in the likeneſs of the Death and Reſurrection of Chriſt, and that the Body of ſin being deſtroyed in him, he may ſerve God in newneſs of Life all his Days.

Then the Miniſter is to demand the Name of the Child, which being told him, he is to ſay (calling the Child by his Name) "I Baptiſe Thee In The Name Of The Father, Of The Son, And Of The Holy Ghoſt." As he pronounceth theſe words, he is to Baptize the Child with Water, which for the manner of doing, it is not only lawful but ſufficient, and moſt expedient, to be by pouring or ſprinkling of the Water on the Face of the Child, without adding any other ceremony. This done, he is to give thanks and Pray to this or the like purpoſe; Acknowledging with all thankfulneſs, that the Lord is true and faithful in keeping Covenant and Mercy, that he is good and gracious, not only that he numbereth us among his Saints, but is pleaſed alſo to beſtow upon our Children this ſingular token and badge of his love in Chriſt; That in his truth and ſpecial providence, he daily bringeth ſome into the boſom of his Church, to be partakers of his ineſtimable Benefits purchaſed by the blood of his Dear Son for the continuance and increaſe of his Church; And praying that the Lord would ſtill continue and daily confirm more and more this his unſpeakable favour: That he would receive the Infant now Baptized, and ſolemnly entered into the houſehold of faith, into his Fatherly tuition and defence, and remember him with the favour he ſheweth unto his people: That if he ſhall be taken out of this Life in his Infancy, the Lord, who is rich in Mercy, would be pleaſed to receive him up into glory, and if he live and attain the Years of Diſcreation, that the Lord would ſo teach him by his word and Spirit, and make his Baptiſm effectual to him, and ſo uphold him by his divine power and grace, that by faith he may prevail againſt the devil, the World and the Fleſh: Till in the end he obtain a full and final Victory, and ſo be kept by the Power of God through faith unto Salvation, through Jeſus Chriſt our Lord.

Miniſters are to reject Indecent Names to Children.

§ 11. By the 14th Article, Chap. 11. of the French Church Diſcipline, Miniſters ſhall Reject Names given to Children, that ſavour of ancient paganiſm, ſuch as DIANA, and the like; and the Names attributed to God, ſuch as EMMANUEL, and the like, but the Names of Holy Men and Women in the Scripture are to be choſen.

Private uſe of Sacraments Condemned.

§ 12. By the 10th Act of Aſſembly 1690, they conſidering that the parties receiving the Sacraments, are Solemnly Devoted and Engaged to God before Angels and Men, and are Solemnly Received as Members of the Church, and do entertain communion with her: And that by former Acts, viz. 10th December 1638, and 7th February 1645, the private uſe of them hath been condemned: As alſo, that by allowing the private uſe of the ſame in pretended caſes of neceſſity, the ſuperſtitious opinion is nouriſhed, that they are neceſſary unto Salvation, not only as commanded duties, but as means without which Salvation cannot be attained. Therefore they diſcharge the adminiſ-

tration of the Lord's Supper to Sick Perſons in their houſes, and all other uſe of the ſame, except in the public Aſſemblies of the Church. And alſo, they diſcharge the Adminiſtration of Baptiſm in private, that is, in any place, or at any time, when the congregation is not orderly called together to wait on the diſpenſing of the word. Which is agreeable to the 6th Article, Chap. 11. of the French Church Diſcipline, and not to be diſpenſed with, except in times of perſecution. And when a Child is Baptized in a private houſe, as is uſed in England; In that caſe the Miniſter is to certify the congregation to which the Child belongs, that the ſame was Baptized by him, at ſuch a time, and in ſuch a place before divers Witneſſes. By the 31ſt *Can Conc. 6. in* Trullo: *Clericos qui in Oratoriis quæ ſunt intra domos ſacra faciunt vel Baptizant hoc illius loci Epiſcopi ſententia facere debere, decernimus. Quare ſi quis Clericus hoc non ſic ſervaverit, deponatur.*

Regiſter of Baptiſm.

§ 13. There is a Regiſter to be kept of the Names of all Baptized, and of their Parents Names and deſignations, and of the time of their Baptiſm, and of the Names of the Witneſſes thereto. And of all illegitimate Children's Names, and thoſe of their Parents ſhall be likewiſe inſert: But of ſuch it is only ſaid, that they are not born in Lawful Marriage. When it is an inceſtuous Child, it ſhall ſuffice to Name the Mother, with the preſenter of the Child, that the remembrance of ſo hanious a ſin may be extinguiſhed. This is conform to the 19th Article of the foreſaid 11. Chapter.

Baptiſm to be but once adminiſtred

§ 14. Baptiſm is not to be Adminiſtred but once unto any perſon. It is not the practice of the reformed Churches to re-baptize thoſe who were Baptized by the Popiſh Clergy: For they Baptize with Water in the Name of the Father, Son, and Holy Ghoſt as we do. But Quakers, and others, who want this External Seal of the Covenant of Grace, though ſuch ſhould make profeſſion of the true faith, that Sacrament of Baptiſm doth remain to be Adminiſtred unto them, before they or their Children can enjoy the privileges of Church Members.

He who Baptizeth muſt be Ordained and Lawfully Called.

§ 15. Neither of the Sacraments may be diſpenſed by any, but by a Miniſter of the Word lawfully Ordained, ſaith our Confeſſion of Faith, Cap. 27. Art. 4. And Perſons are to be Baptized by a Miniſter of the Goſpel lawfully called thereunto, according to Art. 2. Cap. 28. Our Law makes Infeftments Void and Null, where they are not given by ſuch as it appoints and authorizeth to give them: Thus are all infeftments in royal Burghs, not given by ſome of the Magiſtrates or Clerks thereof. Yet Baptiſm, when it is Adminiſtred by a Perſon, whoſe Ordination and Call is not agreeable to the Principles, conſtitutions and practice of this Church, the eſſentials of the Sacrament being obſerved, that Baptiſm is eſteemed as Valied, though not as Lawful. And although the Reformed Churches, (ſo far as

I can learn) would Inflict the higheſt cenſure upon Women or Laicks, as Profaners and Mockers of the Holy Sacraments, if they preſumed to diſpenſe them: and would not have the leaſt Scruple to Baptize thoſe on whom they had wickedly uſurped a power to impoſe a Mock of it; Yet I find they have declined to determine ſo clearly in the caſe of Re-baptizing of theſe who were Baptized by depoſed Miniſters; Which, I think, doth not proceed ſo much from the want of a parity of Reaſon, as it doth from the Offence, which may ſometimes be taken by a great part of a Church, who do not underſtand, or are not ſatisfied with the Grounds of their depoſition, or perhaps may be altogether ignorant of their being depoſed. But when a depoſed Miniſter hath ſo little Intereſt, and ſo few Followers, that he is eſteemed by moſt, yea by a vaſt Majority, to be Lawfully Depoſed: In that caſe it might give Offence, not to Re-baptize a Child who was ſo unlawfully Baptized.

TITLE IV.

Of the Lord's Supper.

What the Lord's Supper is.

§ 1. THE Lord's Supper, ſo called from the time of its inſtitution and firſt celebration, is a Sacrament of the New Teſtament, wherein by giving and receiving bread and wine, according to the appointment of Jeſus Chriſt, his death is ſhewed forth, and they that worthily communicate, not after a corporal and carnal manner, but by faith, feed upon his body and blood, to their ſpiritual nouriſhment and growth in grace, have their union and communion with Him confirmed, teſtify and renew their thankfulneſs and engagements to God, and their mutual love and fellowſhip each with the other, as members of the ſame Myſtical Body.

Who may be admitted thereto, and who not?

§ 2. Theſe who are to be admitted to this Sacrament, muſt be found to have a competent knowlege of the fundamentals of the Chriſtian religion, and to be of ſuch an inoffenſive walk and converſation, both towards God and their neighbours, that they are not known to be guilty of any ſcandal that meriteth church cenſure. By the 12 chap. of the French Church Diſcipline, Art. 2. perſons ſhall not be admitted to the Lord's Supper, till they be about twelve years of age. But I am ſure, if children at nine years of age can expreſs themſelves piouſly and knowingly, ſhewing that they have the grace ſignified and promiſed, the Seal of the Promiſe cannot warrantably be denied unto them. By the 6 Art. of that Chapter, a man that is deaf and dumb, ſhewing his piety and religion what he can, by evident ſigns, tokens and geſtures, may be admitted to partake, when by a long experience of the holineſs of his life, the Church ſhall perceive he has faith. By the 7 Art. thereof, the bread of the Sacrament is to be adminiſtred to thoſe who cannot drink wine, they

protesting that it is not through contempt, and they doing what they can towards it, by putting the cup as near their mouth as they may do to avoid giving any manner of offence. And by the 10 Art. of the same 12 Chapter, they say: In as much as several sick persons come to receive this Sacrament, which gives occasion that severals make scruple of drinking the wine after them, the Pastors and Elders shall be warned to take good heed that care and prudence be used in this matter. They may Communicate last.

The Ordinary Elements to be used in the Lord's Supper.

§ 3. Ordinary bread is to be used, and it is most decent it be leavened Wheat Bread. Any kind of Wine may be used in the Lord's Supper, yet Wine of a Red Colour seemeth must suitable. In case a Society of Christians should want the fruits of the vine of all sorts, I cannot think but it might be supplied by some composure as like unto it as could be made: And if any Church laboured under that invincible necessity, were it not safer for them to interpret that as a call and warrant to Communicate, though wanting the fruit of the vine, than to construct it an authorizing them in a perpetual neglect of that Sacrament?

Communicants to be recorded by the Sessions Order, and admitted by their Sentence after Trial.

§ 4. When the admission of these who are allowed to partake of the Lord's Supper, is once recorded by a sentence of the Church-Session, which is to proceed either upon the Minister's examining of the parties in their presence, or at least of two or three of the Elders, that so the rest may pass their sentence on their testimony and report. In that case there will never be any necessity of coming afterwards to Ministers and Elders for readmission, unless by after scandal they be judically suspended from that privilege. See the Vindication of Presbyterial Government, printed at London, 1659, page 143. VIDE INFRA § 6, and 16.

How strangers are admitted with & how without Testimonials.

§ 5. When the Sacrament of the Lord's Supper is to be celebrated in a neighbouring congregation, who have not leisure, and whose work is not to examine strangers (as above) The Minister, or any two Elders in his absence, may give testimonials, yea, should give to any of their Parish, who communicate ordinarily at their own Parish Church, and are without scandal in their life for the time, who are thereupon to be admitted EX DEBITO, and by reason of the communion of Saints. But this is not to prejudge the admission of any honest person, who occasionally is in the place where the Communion is celebrate, or such as by death or absence of their own Minister or Elders, could not have a Testimonial. Act of Assem. Feb. 7th, 1645, Art 12, about Uniformity of Worship.

Ministers Behaviour, especially with persons when first Admitted.

§ 6. By the 11 Act of the Assembly, 1706, it is recommended to all Ministers, to take as strict a trial as can be of such as they admit to the Lord's Supper, especially before their first admission thereto,, and that they daily instruct them, particularly as to the COVENANT OF GRACE, and the nature and end of that

ordinance as a ſeal thereof, and charge upon their conſciences the obligations they lie under from their Baptiſmal Covenant, and ſeriouſly exhort them to renew the ſame. This fully anſwers the end that any Proteſtant biſhop can have in miniſtring of confirmation, or laying on of hands upon thoſe that are baptized and come to years of diſcration: Neither doth it ſavour of any ſuperſtition, or any ſcandalous like approach to the Papiſts confirmation (by Chriſm on Infants) for the receiving of the Holy Ghoſt, which is nothing elſe but an audacious apiſh imitation of conveighing miraculous operations by the Apoſtles hands.

Perſons Guilty of more private Scandals how to be admitted

§ 7. It is agreeable to the Law of Nature to ſeek and promote the good of others, according to our ability and opportunity, by admoniſhing them to forbear ſin and repent for it, Lev. xix. 17. "Thou ſhalt not hate thy brother in thy heart, thou "ſhalt in any ways rebuke thy neighbour, and not ſuffer ſin "upon him." See Matth. xviii. 15. I ſuppoſe that the Sovereigns on earth did publiſh their intentions of pardoning all traitors, who ſhould expreſs their ſorrow and hatred at former treaſons, and as a mean to reduce them to that happy temper, had ſtrictly commanded and required all their good ſubjects, to put them in mind of the ingratitude, folly, and danger of their treaſon: Would not we conclude that a neighbour ſeeing his fellow commit treaſon, and not reproving him therefore, did neither regard his Sovereign's honour and authority, nor yet valued his neighbour's happineſs? How much more juſtly may our Lord and Saviour load and charge Church rulers with this ſin, if they fail to perform that duty, ſeeing he hath laid his ſpecial commands upon them to do it? And therefore, if any Elder or Miniſter, ſhall ſuffer one whom they know to be guilty of ſome ſcandalous or hainous ſin, though not public, to approach unto the Lord's Table, without ſatisfying acknowlegements made in private for it, they do thereby, for ought they known, ſuffer him to partake of that holy Supper, with unrepented ſin upon him.

perſons who converſe not together How to be admitted.

§ 8. As there are divers kinds of good gifts, ſo there are divers degrees of them, according to which we may and ought to love our neighbour, more or leſs, becauſe we are commanded to do good unto all men, both with our ſpiritual advice, and with out worldly goods, miniſtrting to their neceſſities, but eſpecially unto them who are of the houſhold of faith, Gal. vi. 10. We are bound to ſhew our love to our enemies, by overcoming evil with good. Rom. xii. 21. Which is the way, not only to be even with them that wrong us, but to be above them. Every man is called to provide for his own, eſpecially for thoſe of his own houſe, 1 Tim. v. 8. We are to have a natural affection for ſuch as be near to us in blood, and the want thereof is diſcovered by the want of converſe. The Apoſtle (1 Cor. v. 11.) forbids to keep company with ſome ſcandalous perſons, and ad-

mitting that precept to be prohibitive of a civil intimacy, it holds as a ſtronger argument againſt religious communion with, or at leaſt admiſſion of them to ſuch a diſtinguiſhed ordinance. Solomon (Prov. xxii. 24.) forbids us to go into the company of a furious man, and to converſe frequently and familiarly with an angry man, as friends uſe to do, So that, though there are common offices due to all men, yet that diſtinguiſhing practice of friends in frequent converſing together, is free and optional, as the beſtowing of gifts is. Indeed, when nottour ſcandalous breaches and differences do happen, in that caſe, the parties ſhould be obliged to a formal agreement, by coverſing in preſence of thoſe, whoſe work it is to compoſe ſuch differences: But even then, they can be obliged to continue in no more friendſhip than a common converſe imports, eſpecially the leſed party. They may be indeed both obliged to profeſs a ſincere reconciliation, though not unto a familiar converation. But as to the uſual converſe with thoſe of our houſhold and blood-relations, as huſband with wife, and father with children or the like, it is agreeable both to the laws of nature and intereſt, firmly to preſerve and perſevere in that. Wherefore upon the whole where ſuch near relations refuſe uſual converſe with one another, or neighbours at variance ſhall refuſe to renew or continue a common converſe, in that caſe, neither of the guilty parties ought to be admitted to the Lord's Table.

Perſons Scandalous PER FAMAM CLAMOSAM; How to be admitted, or attested.

§ 9. FAMA CLAMOSA, PUBLICA & FREQUENS, doth ſupply the part of an accuſer, ſo that any who lie under the laſh of ſuch reports, muſt be ſo far from being admitted to the Lord's Table, or yet atteſted of, as free of ſcandal, that they ſhould be proceſſed thereupon, and have the benefit of neither, till they juſtify themſelves, VIDE TIT. Of Viſitation of Families.

How to admit thoſe who take ſome different methods from the Church.

§ 10. When one Church Government is eſtabliſhed, if the Church ſhall even then be ſo unhappy as to be afflicted with ſchiſm from thoſe who own the ſame. In that caſe, there ought to be union and communion ſought and admitted, notwithſtanding failings and defects of ſeveral kinds: Providing union and communion may be had without acceſſion to the guilt or defect of others: That is, without being obliged to approve of them, or condemn in our own practice what we judged right, or that we be not by any engagement reſtrained from a duty. Indeed where there is no union in Church Government, Mr. Durham on Scandal, chap. 13, ſays, he cannot nor dares not offer any directions for making up an union here. As for allowing theſe who in their judgment differ about Church-government to communicate with us: It is ſafer to allow them to communicate with us, than for us to communicate with them; for by this way, they may be brought unto us, and we out of hazard of being led away by them. But for all this, ſuch perſons are not to be admitted, if they be in their practice culpa-

ble of any thing which would juſtly keep back thoſe of our own communion; that would be truely a contracting of too much guilt, for gaining of any occaſional Proſelyte or Communicant.

How theſe who are guilty of national Sins ſhould be admitted.

§ 11. When there hath been a great and general defection by a Church and Kingdom, then the National Aſſembly uſeth to appoint a National faſt and humiliation for theſe cauſes. See the Act for a Faſt, November 12th, 1690, and whoever had been guilty or acceſſory to the ſins and evils therein acknowledged: If they joined in the public faſting, they did thereby acknowledge the cauſes thereof to be juſt and true, and profeſſed their ſorrow and humiliation therefore: Wherewith the Seſſion ought to be ſatisfied, if they ſignify their meaning to have been ſo, or that they judge the cauſes of the faſt true and relevant.

How Non-Communicants ſhould be treated.

§ 12. By the Act of Aſſembly Auguſt 3d, 1642, every Preſbytery is enjoined to proceed againſt non-communicants. And by the 11. Art. Cap. 12. of the French Church Diſcipline, theſe who have been a long time in the Church, and will not communicate of the Lord's Supper, if they do it through contempt, or for fear of being obliged to forſake all manner of Idolatry, after ſeveral admonitions, they ſhall be cut off from the Body of the Church: But if it be through infirmity, they ſhall be born with for ſome time, until they can be eſtabliſhed. And by the Act of Parliament 16. James VI. Cap. 17. which is never yet reſcinded, but rather included in the Acts made and Ratified againſt Profaneneſs. By it all men are to communicate once a Year, without reſpect to the excuſe of deadly feuds, under pecunial pains according to the quality of the tranſgreſſors. This Act is Ratified by the Parliament 1641, though people ought not, nor cannot, be compelled to communicate, yet non-communicating, not being a matter indifferent, but a palpable diſobedience to God's Voice in the Goſpel, (Luke xxii. 19.) they ought to account for that ſcandalous neglect and intermiſſion, e're they be of new admitted.

The Deſign & Diſtribution of Tickets.

§ 13. None muſt preſume to ſit down at the Lord's Table, but ſuch as are admitted according to order, except thoſe whoſe fitneſs is unqueſtioned and notour. Each perſon before communicating doth deliver the Pariſh Lead Ticket, when ſought for, to one of the Elders or Deacons when ſitting at the Table: But it were ſafer to demand theſe Warrants or Tokens at their entry to the Tables: For a perſon unwarrily or deſignedly approaching to the Table without a Token, may with leſs obſervation or offence, be thus kept from it, than raiſed from it. Theſe Tickets are diſtributed by the Seſſion, or Members thereof by their allowance, to ſuch as they have admitted, or know to be lawfully atteſted from other Pariſhes.

Fencing and Opening of the

§ 14. The Miniſter and Seſſion having according to the Rules of Diſcipline, admitted unto, or debarred perſons from the Lord's

Tables; Its Use & End

Table, the Paſtor doth now, immediately before he read the words of inſtitution, doctrinally debar from, and inviteth all unto the Lord's Table according to the State and Condition they really are in. If there has been an unexactneſs or omiſſion in the Exerciſe of Diſcipline, through which ſome are admitted whom the word of God forbids to approach on their peril; This doctrinal debarring may ſcar ſuch from partaking. But if there hath been an imprudent and uncharitable Exerciſe of Diſcipline, in debarring of ſome wrongouſly, then the Paſtor's doctrinal opening of the Tables, and inviting ſuch from the word of God to approach, albeit debarred by the key of Diſcipline, may nevertheleſs comfort themſelves in the Lord, who will be a little Sanctuary unto them who are thus roughly and indiſcreetly treated by the Watch-men. From all which, we may gather, that it is ſafer to err on the right hand of charity, than on the left hand of Strictneſs and Severity; The Civil Law gives this Rule, *Semper in dubiis benigniora præferenda ſunt.*

Secret Preparation.

§ 15. It is ſo far from being a Warrant, and ſatisfying to a man's conſcience, for approaching the Lord's Table, becauſe the Diſcipline of the Church admits him, that even a man habitually gracious and prepared, will not for ordinar adventure to approach it, except he hath made conſcience of getting himſelf actually prepared, and his graces put in exerciſe, and ſet apart ſome conſiderable time for that purpoſe.

Public Preparation.

§ 16. By the Act of Aſſembly 7th February, 1645, about the obſervation of the Directory in ſome points of public Worſhip, congregations are ſtill to be tried and examined before the communion. ITEM, that when the communion is to be celebrate, one Miniſter may be imployed for aſſiſting the Miniſter of the Pariſh, or at the moſt two. ITEM, that there be one Sermon of Preparation delivered in the ordinary place of public worſhip upon the day immediately preceeding. ITEM, that the Miniſter who cometh to aſſiſt, have a ſpecial care to provide his own Pariſh. ITEM, that before ſerving of the Tables, there be only one Sermon delivered to theſe who are to communicate, and that there be one Sermon of Thankſgiving after the communion is ended. ITEM, when the pariſhioners are ſo numerous, that many of them cannnot conveniently have place; In that caſe, the brother who aſſiſts the Miniſter of the Pariſh, is to preach to them who are not to communicate that day, which is not to begin, until the Sermon in the Kirk be ended, viz. Sermon in the Fore-noon.

The preſent Practice.

§ 17. But by the preſent Practice, the Thurday, or ſome other day of the week, preceeding the communion, is kept as a Faſt-day, on which there are three Sermons delivered by ſo many Neighbouring Miniſters, which yet to ſome ſeems not very proper: For the deſign of that day being a Congregational Faſt, on which, the ſins of that Pariſh are to be mourned over before the

Lord, no other Minister can have such particular knowlege thereof, as he who labours and travels among them. Upon Saturday there are two preparation Sermons; and upon the Lord's Day there are in some Churches two Action Sermons, beside the Thanksgiving in the Afternoon; and on the Monday there are two Thanksgiving Sermons. There will be at these occasions, three, five, or perhaps more Ministers assisting the Pastor of the Congregation, because of the great confluence of people that resort thereto. Intimation of the celebration of the Supper, is made two or three Sabbaths before: (the Directory speaks but of one) And on the Sabbath immediately preceding public intimation is made of the Fast.

What interveens between the Action Sermon & the Action itself.

§ 18. Upon the day of the communion, a large Table being so placed, as the communicants may best sit, and the congregation may both see and hear, the public Worship is begun as on other Sabbaths. And immediately after Sermon, the Minister Prays and sings a part of some Psalm, then, having had an exhortation, he desires the Elders and Deacons to bring foreward the Elements, while he cometh from the Pulpit, and siteth down at the Table, and the congregation again sing; thereafter, he fenceth and openeth the Tables, as before was said. The Bread now standing before him, in large dishes, fitly prepared for breaking and distribution, and the Wine in large cups; he reads, and may shortly expound the words of the institution, 1 Cor. xi. 23. 27. Next, he useth prayer, wherein he both giveth thanks for the inestimable benefit of Redemption, and prays to God to sanctify the elements, and accompany His own ordinance with the effectual working of His Spirit.

The Minister's Behaviour at the Action.

§ 19. The elements being thus sanctified by word and prayer, the Minister is to take the bread, and say, according to the holy institution, command, and example of our blessed Lord and Saviour Jesus Christ, I take this Bread, and having given thanks, I break it, and give it unto you, Take ye, Eat ye, this is the Body of Christ which is broken for you, do this in Remembrance of Him. In like manner, the Minister is to take the Cup, and say, according to the institution, command and example of our Lord Jesus Christ, I take this Cup, and give it unto you, This Cup is the New Testament, in the Blood of Christ, which is shed for the remission of the Sins of many, Drink ye all of it: For as oft as ye eat this Bread, and drink this Cup, ye do shew the Lord's Death till he come. If the Minister have no other Brethren assisting him in the administration, from whom he is rather to take the Communion at the next Table, he is to Communicate himself at the the first breaking of the Bread, and distributing the Cup.

Service of Tables by Elders and Deacons.

§ 20. All the while the Elders and Deacons in a competent number, and in a grave and reverent manner, do attend about the Table, to see that none be admitted without Tokens, as in

§ 13. Huj. Tit. and that all who are admitted, may have the Bread and Wine in their own place and order of sitting, which is without difference of degrees, or respect of persons.

The Behaviour of Ministers & Communicants during the Service.

§ 21. By the last mentioned Act of Assembly, there is to be no reading in the time of communicating, but the Minister maketh a short exhortation at every table; that there be silence during the time of the Communicants receiving, only the Minister may drop a short and suitable sentence. By that same Act, the distribution of the Elements among the Communicants is to be universally used, after the Minister hath broken and delivered it to the nearest. Item, that while the tables are dissolving, and filling, there be always singing of some portion of a Psalm. Item, That the Communicants both before their going to, and after their coming from the Table, shall only join themselves to the present public exercise then in hand. Item, that none of those who are present in the Kirk, where the Communion is celebrate, be permitted to go forth, till the whole Tables be served, and the Blessing pronounced, unless it be for more commdious order, and in other cases of necessity.

Exhortation and Thanks-giving after all have Communicate; & the Conclusion

§ 22. The last Table, after they have received, ordinarly sitteth still, to avoid any trouble by going to their own places. The Minister goes to the Pulpit, where, in a few words, he putteth them in mind of the Grace of God in Jesus Christ, held forth in this Sacrament, and exhorts them to walk worthy of it. Then he gives solemn thanks to God for His rich mercy in Jesus Christ, begs His pardon for the defects of the whole Service, and intreats His assistance to walk as becometh those who have received so great pledges of salvation, and then concludes with the usual petitions in the public Prayers of the Church. After Prayer, all join in singing a part of a Psalm, suitable to the occasion, and are dismissed with the Blessing.

The frequent Celebration of the Lord's Supper recommended

§ 23. In the Manuscript Acts of Assembly, there is an Act, Dec. 1562, appointing the Communion to be celebrate four times a year in towns, and twice a year in country Parishes; yea, it was ministred then once a month, as may be seen by the old Discipline bound in with the old Psalms, and Forms of Prayer in Mr Knox's time. And by the 14th Art. chap. 12. of the French Church Discipline, it is recommended to their National Synod, to give directions about the more frequent celebration of the Lord's Supper, and their custom then was four times a year. But our Acts of Assembly, 1638, Sess. 23. Act 12—Act 19. of Assem. 1701, and Directory for Worship, do only recommend the frequent celebration of the Lord's Supper: But how often is to be determined by the Kirk-Sessions, as they shall find most convenient for the comfort and edification of the people. These Recommendations seem to be treated with little or no regard among us, for as yet, so far as I know, not one Parish hath celebrate it once more than ordinary upon their

account. I am sure, if they will have it but once a year, yet Parishes, in the neighbourhood may so correspond, as to have it in that bounds all the months of the year, which will supply the want of its frequency in one Parish, at least unto such as may well travel unto their neighbours Churches.

§ 24. By the Act James VI. Par. 3. chap. 54. SUB FIN. the Parsons of all Parish-Kirks are to furnish bread and wine to the communion so often as it shall be administrate. And by the Act of Assem. 1638, Sess. 33. Art. 12, where the Minister of a Parish has only allowance for furnishing communion elements once a year; It is declared, that the charges should rather be paid out of that day's collection, than that the congregation want the more frequent use of the Sacrament. Spanhemius, in his Introduction to Sacred History, tells us, that in the second century, the Lord's Supper was then expressed by several names, and among others it was called Oblation, from the peoples offering the bread and wine. And truely, if the people were desired to contribute money for that end, it were but reasonable, and not to be grudged, even though it were but once a year celebrated, where the Minister has no allowance even for that once, and wants likeways a legal maintenance, allocated and secured unto him. But where the communion is but once a year, and the Minister hath a legal Stipend secured to him, he ought to be discharged to take or defray the expences of the elements out of the money given and mortified for the use of the poor: and this practice is rendered yet the more scandalous and inexcusable, in Parishes where this Sacrament is but once a year celebrate, and where there be colleagues who have both legal Stipends. The sum ordinarily modified for communion elements doth not exceed fifty merks Scots, which the Heretors are liable yearly to pay, albeit the communion be not administrate in the Parish, providing the Minister offer to apply it for the use of the poor.

How Communion Elements are paid, and applied when the Communion is not Celebrate.

TITLE V.

Of Solemnization of Marriage.

§ 1. MATRIMONIUM is defined by MODESTINUS to be MARIS & FOEMINÆ CONJUNCTIO, & OMNIS VITÆ CONSORTIUM, DIVINI & HUMANI JURIS COMMUNICATIO, i. e. The conjuction of man and woman to be consorts for all their life, with a communication of Rights Divine and Human. By the laws of the Church of England, as they are Reformed by Henry VIII. and Edward the VI. in the latter Edition, printed at London, 1641, Marriage is defined, *Legitimus contractus mutuam & perpetuam viri cum fœmina conjunctionem, Dei jussu inducens & perficiens; in quo tradit uterque alteri potestatem sui corporis, vel ad prolem*

Marriage described.

Suscipiendam, vel ad scortationem evitandam. NUPTIÆ are sometimes taken *pro ritu nuptiali*, for Wedding Ceremonies.

SPONSALIA, or Espousals what?

§ 2. The *Sponsalia*, or Espousals, *sunt mentio & repromissio futurarum nuptiarum*, or, *de futuro Matrimonio*, It is only a consent DE PRESENTI that makes Marriage: But the consent DE FUTURO, which is given at the contract of Marriage or Proclamation of Banns, is only the Espousals, which are premised to Marriage, it being so Solemn an Act, should be performed with due deliberation. By the Civil Law and Custom of this Nation, there is place, REBUS INTEGRIS for either party to repent, and renounce the Espousals. VIDE Stair's INSTIT. page 25. And by the 9th Art. Cap. 13, of the French Church Discipline, though it be Prohibited to Marry the Sister of the Deceased, yet it doth not condemn Marrying the Sister of one Contracted, that is dead, because it supposes that an alliance is not consummated but by commixtion of Blood or Sex. See the Commentary on that Article.

Forbidden Degrees.

§ 3. Marriage ought not to be within the Degrees of consanguinity or affinity, forbidden by the Eighteenth Chapter of Liviticus; The Man may not Marry any of his Wifes Kindred nearer in Blood than he may of his own, nor the Woman of the Husband's Kindred nearer in Blood than of her own. (See the Confession of Faith) Otherwise the Marriage may be declared to have been null. A man may Marry any of his Wifes allies, or a woman any of her Husbands allies; NAM NON DATUR AFFINITAS AFFINITATIS.

Marriage may be declared null, upon Impotency, and when not?

§ 4, Marriage being ordained for the increase of mankind, and for preventing of uncleanness, persons naturally impotent are therefore incapable to Marry. Yet by the Laws of the Church of England, as reformed by K. Hen. VIII. and K. Edward the VI. *De Matrimonio, Cap.* 7. their Canon runs thus, *Verum si nota sit utrique perversitas, & tamen mutuus perduret de Matrimonio consensus, nuptiæ procedant; quoniam volentibus nulla injuria potest fieri.*

These who cannot Consent, cannot Marry.

§ 5. These who cannot consent cannot Marry, such as Idiots and Furious Persons DURANTE FURORE, neither they who have not the use of their Reason, as Infants and those under age who are not come to the use of Discretion, that is when the person is within the Years of Pupillarity, commonly Established in Law to be Fourteen in Males, and Twelve in Females, NISI MALITIA SUPPLEAT ÆTATEM, which without further probation declares them to be arrived at that Discreation which fits them for Marriage.

Consent of Parents, and of Promises of

§ 6. If it be asked, whether the Consent of Parents, curators or nearest Friends in their place be Essential to Marriage? The common sentence will resolve it, *Multa Impediunt Matrimoni-*

um contrahendum, quæ non dirimunt contractum. So that their consent becomes necessary, as it were, *necessitate præcepti, sed non necessitate medii.* And by an overture of Assembly June 4th, 1644, it is proposed to be considered on, and reported by the Presbyteries, that promises of Marriage made by minors, to Women with whom they have Committed Fornication, be declared null and of no effect; Especially when the youth is not willing to observe the same, because his parents threaten him with the loss of their Blessing and of his Birth-right. This is proposed as being agreeable to the Word of God, Marriage made by Minors.

§ 7. Errors in the Substantials make void the consent, unless future consent superveen, as it did in Jacob, who supposed that he had Married and received Rachel, but by mistake got Leah, yet was content to retain her, and to serve for the other also: But errors in qualities or circumstantials vitiate not, as if one supposing he had Married a maid or chast woman, had Married a whore according to Stair's INST. page 26. Yet by Deut. xxii. 21. That error seemeth to be accounted substantial: For by that Text a Woman so deceiving a man was to be put to death. And by the 38 Art. cap. 13. of the French Church Discipline, if it should happen, that after contracts and promises made, and before the accomplishment of Marriage, the bride is found to have Committed Fornication, before or after the said promises, and that it was unknown to him who had promised her Marriage, the consistory may proceed to a new Marriage: And the Bride shall have the same liberty, if it be found that the Bridegroom has been guilty of Fornication before the said promise. By the 5th Art. Cap. 24, of our Confession of Faith, that case is only determined thus far, viz. Adultary or Fornication committed after a contract, being detected before Marriage, giveth just occasion to the innocent party to dissolve that contract, and they support this from that Scripture, Matth. i. 18, 19, 20. Errors that Annul the Consent in Marriage

§ 8. Parties cannot be Married without they be known to be single persons, either by the Ministers own proper knowledge, or by a Testimonial from some Minister, Elders, or Session, bearing the same. But albeit they cannot procure a Testimonial in common form, through their being Scandalous, yet the Benefit of Marriage cannot be denied them after the Proclamation of banns. But by the 21 Art. Cap. 23, of the French Church Discipline, if one of the parties who desire to be married, is excommunicated, the Marriage shall not be admitted in the Church unless the excommunicate person make confession of his faults, but those that are suspended from the Lord's Supper they allow to be married. Testimonials for Marriage.

§ 9. By the 3d Article, Chap. 24, of our Confession of Faith, such as profess the true Reformed Religion, should not Marry with Infidels, Papists, or with other Idolaters, or with such as maintain damnable heresies. And in pursuance of that by an Marriage with Papists

overture of the Assembly 1701, the transgressors were to be excommunicated. But our States-men Disliking the same, this overture in the Assembly 1704, Act 22, issued only in a recommendation. By the 72d *Canon Concilii Sexti in* Trullo, It is Determined thus, *Non licere virum Orthodoxum cum muliere hæretica conjungi, neque vero Orthodoxam cum viro hæretico copulari, sed et si quid ejusmodi ab ullo ex omnibus factum apparuerit, irritas nuptias existimare et nefarium conjugium Dissolvi.* But if two Infidels Marry, and one of them becometh Christian, the Person converted is not thereupon warrented to desert or put away the other party who continues Blind, 1 Corinthians, vii. 13, 14. And by Can. 31. *Concilii Laodiceni, Quod non oportet cum omni Hæretico matrimonium contrahere, vel dare filios aut filias, sed potius accipere si se Christianos futuros profiteantur.* And by 20 Article, Cap. 13, of the French Church Discipline, when one of the parties is of a contrary religion, the purposes of Marriage shall not be published in the Church, until the party doth publicly profess in the Church, that with full resolution he renounceth all idolatry and superstition, particulary the mass: And if any Pastor or consistory do otherwise, they may be suspended or turned out of their Office: Thus difference in religion justly impedes but doth not annul Marriage.

Marriage delayed 40. Days, after Proclamation & Scorning the kirk

§ 10. If parties delay their Marriage Fourty days after Proclamation, they are to be put to the renewing of the same before they be married: And the French Discipline, Cap. 13. Art. 26, doth recommend, not to delay the celebration after Praclamation of banns, above Six Weeks, to prevent inconveniences and ill consequences. The reseiling of parties after Proclamation, is commenly called among us, a Scoring of the Kirk, though the injury or affront redounds mostly against themselves, and not so much upon the congregation. Indeed, if it could be known that parties never had a serious purpose for Marriage, but only from a profane, mocking and vain temper, had desired themselves to be proclaimed; In this case, they deserve to be treated as mockers of God and his people. There are other ways whereby God and his Church may be mocked, when persons, who be found in Body and mind, are given up to be minded in the public prayers of the Church, when they are truely distressed in neither, the authors of which mocking and forgery deserve to be proceeded against with the censures of the Church.

When Adultery and willful Desertion annul Marriage.

§ 11. Adultery and willful Desertion do not annul the Marriage on any absolute Necessity, but they are just occasions upon which the persons injured may annul it, and be free; Otherways, if they please to continue, the Marriage remains Valid excepting when the adultary is committed or accompanied with incest, as if a man should lie with his Wife's Sister, in which case

the Wife cannot free herſelf from the Scandal of Inceſt, if ſhe, after knowledge thereof, continue to co-habit with him as her Huſband. And by the Parl. 1573. Cap. 55, it is ordered, that the deſerter, after four years wilful deſertion without a reaſonable cauſe, muſt be firſt purſued, and decerned to adhere, and being there upon denounced, and alſo after private and public admonitions, by the Church excommunicate, the commiſſars are warranted to proceed to divorce. But ſimple abſence will not be accounted wilful deſertion, if he be following any lawful employment Abroad. In caſe then, a party be out of the country, I ſee not how this order can be uſed and proceeded in, unleſs it were ſufficiently verified and made appear, that he knew of his being cited before theſe conſiſtorial courts, and that his abſence was wilful and not neceſſary.

Re-marrying in Caſe of Divorce or proven Adultery.

§ 12. A party divorced for adultery may marry again ſo it be not to thoſe with whom the adultery, upon which the divorce proceeded, was committed: For Marriage between ſuch is declared null, and the iſſue inhabile to ſucceed to their Parents as heirs, Parl. 1600. Cap. 20, yea, it ſeems agreeable to equity and reaſon, that where adultery was proven, albeit no divorce enſued, in that caſe the adulterers cannot marry together. Which agrees with the *Civilians*, that, *Dolus malus facit ceſſare quodcunque privilegium, fraus enim nemini debet patrocinari imo punienda.*

Force annuls Marriage.

§ 13. Marriage contracted with a Woman Raviſhed or violently taken away and ſtill reclaiming, is annulled from the beginning; See MACKENZIE & MATTHÆUS DE RAPTU. And to this agrees that forecited Book of the Eccleſiaſtical Laws of England, Cap. 12, DE MATRIMONIO. But I am ſure it is unjuſt to treat their Children as Sons of Whores; See LIB. 3, TIT. Raviſhers of Women.

Time and place of marriage.

§ 14. After banns have been lawfully proclaimed, and none found objecting againſt the Marriage, the ſame may thereafter be celebrate in private houſes, before witneſſes, as the cuſtom is now become, upon any week-day, not being a Faſt-day. Albeit by the Directory for Worſhip, it is publicly to be ſolemnized in the place appointed by authority for public Worſhip, before a competent number of credible witneſſes, and they adviſe that it be not on the Lord's Day. I am ſure, Seamen who are to looſe and go to Sea on Monday, may marry on the Saturday as well as on the Sabbath before.

No Marriage without Proclamation of Banns, unleſs the preſbytery Diſ-

§ 15. Marriage without Proclamation is diſcharged, as having dangerous effects, excepting where the Preſbytery, in ſome neceſſary exigences, diſpenſe therewith, Aſſembly 1638. Seſſ. 23: Art. 21. Aſſembly 1690. Seſſ. 12, before any Proclamation of banns be made, the names of Parties, and their Parents, Tutors, or curators, are to be given up to the Miniſter, that the conſent

penſe there-with.

of friends may be known, and the Proclamation is to be made before divine Service begin, for three ſeveral Sabbaths; The parties named being deſigned as fully as they uſe to be in writs or contracts of Marriage, and in collegiate Churches, the Proclamation is to be in every Church of the Town, Aſſembly 1699. Seſſ. 5. By the 18. Art. 13. Cap. of the French Church Diſcipline, theſe who live in places where the uſual exerciſes of religion is not eſtabliſhed, may cauſe their banns to be publiſhed in Romiſh Churches, inaſmuch as the matter is partly of a political nature. And by the 22. Article of that Chapter, the banns of Widows who Re-marry ſhall not be publiſhed in the Church, till ſeven Months and two Weeks, at leaſt, after the deceaſe of their former Huſbands, to avoid the ſcandals and inconveniencies that may happen by it, unleſs it ſo happen, that the Magiſtrates order may interpoſe to the contrary.

Clandeſtine Marriage what? Its Puniſhment and Cenſure.

§ 16. One may be clandeſtinely married, either when banns are not proclaimed, or when the Marriage is celebrated by one not ordained and admitted by the Church, nor authorized by the ſtate. By our Acts of Parliament W. Par. Seſſ. 5. Cap. 12, the perſons clandeſtinely married, may now be proſecuted by every procurator fiſcal. And by Cap. 6. Seſſ. 7. Parl. K. W. perſons clandeſtinely married, are obliged, when required, to declare the Name of the Celebrator, and Witneſſes, under the pains following, viz. Each Nobleman 2000 LIB, the landed Gentleman 2000 MERKS, any other Gentleman or Burgeſs 1000 LIB, and any other perſon 200 MERKS, and to be impriſoned till they declare and Pay. The Celebrator is puniſhable by the Council, not only with Baniſhment, but in ſuch pecunial or corporal pains as they ſhall think fit; The Witneſſes are made liable in the Sum of 100 LIB. None of the parties (if both be reſiding in Scotland) ſhall get themſelves married in England, or Ireland, without Proclamation of banns in Scotland, and againſt the order of the kirk, under the pains as aforeſaid, which are always without prejudice of kirk-cenſure. And there is no doubt they ſhould be rebuked as unneceſſary tranſgreſſors of a very comely and rational Church order.

Objections againſt the Marriage on that Day ought to find Caution.

§ 17. By the form of ſolemnization of matrimony, preſcribed by the Church of England, in the Book of Common Prayer: If any man upon the day of Marriage, do alledge and declare any impediment, why the parties may not be coupled together in matrimony, by God's Laws, and the Laws of the Realm, and will be bound, and ſufficient Sureties with him, to the parties, or elſe put in a caution (to the full value of ſuch charges as the perſons to be married do thereby ſuſtain) to prove his allegation; Then the ſolemnization muſt be deferred until ſuch time as the truth be tried.

Form of Solemniza-

§ 18. After the purpoſe of Marriage hath been orderly publiſhed. The Miniſter is firſt to pray for a bleſſing upon the

parties appearing to be married: Which being ended, he is briefly to declare unto them out of the Scripture, the inſtitution, uſe and ends of Marriage, with the conjugal duties. Then he is ſolemnly to charge the perſons to be married, that they would anſwer as in the ſight of God, to whom they muſt give a ſtrict account at the laſt day, that if either of them know any cauſe, by pre-contract, or otherways, why they may not lawfully proceed to Marriage, that they now diſcover it. The Miniſter, if no impediment be acknowledged, ſhall cauſe firſt the man take the woman by the Right Hand, ſaying theſe words. "I, N. do take thee N. to be my married Wife, and do in the preſence of God, and before theſe Witneſſes, promiſe and Covenant to be a Loving and Faithful Huſband unto thee, until God ſhall ſeparate us by Death." Then the woman ſhall take the man by the Right Hand, and ſay theſe words. "I, N. do take thee N. to be my married Huſband, and I do in the preſence of God, and before theſe Witneſſes, promiſe and Covenant, to be a Loving, Faithful and Obedient Wife unto thee, until God ſhall ſeparate us by Death." Then without further ceremony, the Miniſter ſhall pronounce them to be Huſband and Wife according to God's ordinance, and ſo conclude the action with Prayer.

tion of the Marriage Covenant.

§ 19. By the Directory for Worſhip on this head, a Regiſter is to be carefully kept, wherein the Names of the parties ſo married, with the time of their Marriage, are forthwith to be fairly recorded, for the peruſal of all whom it may concern. And that the Regiſters of Baptiſms and Marriages may bear the greater Faith, it is fit they be ſubſcribed on each page by the Miniſter; Or, in a Vacancy, by two Elders, and the Clerk of the Seſſion.

Regiſter of Marriage & Baptiſms; How to bear Faith.

TITLE VI.

Of Viſitation of the Sick.

§ 1. WE are admoniſhed by the Apoſtle Paul 1 Cor. x. 32, to give no offence neither to the Jews nor to the Gentiles, nor to the Church of God. By the 41 Canon *Concil. Carthagin. Clerici ad Viduas vel Virgines non ingrediantur, ſed cum Con-clericis, vel ubi adſunt Clerici, vel alii qui bonæ exiſtimationis Chriſtiani.* And by the Act of Aſſembly Auguſt 24th, 1647. Seſſ. 19. Art. 13, ſometimes the perſon troubled may be of that condition, or that Sex, that diſcreation, modeſty, or fear of ſcandal, requireth a godly grave friend to be preſent, when the Paſtor is viſiting the troubled perſon.

Miniſters, Elders, or Deacons, ſhould be Cautious in being alone with unmarried women when ſick or in trouble.

§ 2. It is the Miniſter's duty to admoniſh, exhort, reprove and comfort theſe committed to his charge, upon all ſeaſonable occaſions, ſo far as his time, ſtrength and perſonal ſafety will permit. The people are often to confer with their Miniſter about

Miniſters & people are frequently to converſe about their

Soul-Matters. the estate of their Souls, and in times of sickness to desire his advice and help, before their strength and understanding fail them: For this and what follows of this Title see the Directory.

The Matter of his Conference when sent for to the Sick. § 3. The Minister being sent for, is to repair to the Sick, and to apply himself with all tenderness and love to his soul, instructing him out of the Scripture, that diseases come not by chance, or by distempers of body only, but by the wise hand of God; And whether it be laid upon one out of displeasure for sin, for his correction or amendment, or for trial and exercise of his graces, or for other special and excellent ends, all his sufferings shall turn to his profit, if he sincerely labour to make a sanctified use of God's Visitation, neither despising his chastening, nor waxing weary of his correction.

How to deal with Ignorant, doubting & Secure. § 4. If the Minister suspect him of ignorance, he shall examine and instruct him in the principles of religion, and in the nature, use, excellency and necessity of the graces of the Spirit of God. He shall stir up the Sick person to examine himself, to search and try his former ways, and his estate towards God. If the Sick person shall declare any scruple, doubt, or temptation, that is upon him, instructions and resolutions shall be given to settle him. But if it appear that he hath not a due sense of his sins, endeavours ought to be used to convince him, of the guilt, pollution and desert of them; And withal, to make known the danger of delaying repentence, and to rouse him out of a stupid secure condition, to apprehended the Justice and Wrath of God, before whom none who are out of Christ can stand: care must be taken that the Sick person be not cast down into despair, by such a severe representation of the Wrath of God due to him for his sins, as is not mollified by a seasonable propounding of Christ and his merits, for a door of hope to every penitent Believer.

How to deal with these of whose well being there is ground of Hope. § 5. If the Sick person have endeavoured to walk in the ways of holiness, and to serve God in uprightness, although not without many failings and infirmities; Or, if his Spirit be broken with the sense of sin, or cast down through the sense of the want of God's Favour: Then it will be fit to raise him up, by setting before him the freeness and fulness of God's Grace, the sufficiency of Christ's Righteousness, and the gracious offers in the Gospel: It may be also useful to shew him, that Death hath no spiritual evil to be feared by those who are in Christ, because Sin, the sting of Death is taken away by him, who hath delivered all that are his from the bondage of the fear of Death. Let advice also be given, as to beware of an ill-grounded persuasion on mercy, or on the goodness of his condition for Heaven, so to disclaim all merit in himself, and to cast himself wholly upon God for mercy, in the sole merits and mediation of Jesus Christ.

The Minister is to § 6. When the Sick person is best composed, may be least disturbed, and other necessary offices about him least hindered: The

Miniſter, if deſired, ſhall pray with and for him, confeſſing and bewailing original and actual ſin, acknowledging it to be the cauſe of all miſery: Imploring God's mercy for the ſick perſon through the blood of Chriſt, beſeeching that God would open his eyes, cauſe him to ſee himſelf loſt in himſelf, make known to him the cauſe why God ſmiteth him, Reveal Jeſus Chriſt to his ſoul for righteouſneſs and life, give unto him his Holy Spirit to create and ſtrengthen faith, to work in him comfortable evidences of his love, to arm him againſt temptations, to take off his heart from the world, to furniſh him with patience and ſtrength, to bear his preſent viſitation, and to give him perſeverance in faith to the end: That if God ſhall pleaſe to add to his days, he would vouchſafe to bleſs all means of his recovery, renew his ſtrength, and enable him to walk worthy of God by a faithful remembrance and diligent obſerving of his vows and promiſes of holineſs and obedience: And if God hath determined to finiſh his days, by the preſent viſitation, he may find ſuch evidence of his intereſt in Chriſt, as may cauſe his inward man to be renewed, while his outward man decayeth. pray, if deſired; And for what?

§ 7. The Miniſter ſhall admoniſh him alſo, as there ſhall be cauſe, to ſet his houſe in order, thereby to prevent inconveniencies, to take care for the payment of his debts, and to make reſtitution or ſatisfaction where he hath done any wrong; To be reconciled to thoſe with whom he hath been at variance, and fully to forgive as he expects forgiveneſs. He may alſo improve the preſent occaſion to exhort theſe about the Sick perſon, to conſider their own mortality; And in health ſo to prepare for Sickneſs, Death and Judgment, that when Chriſt who is our life ſhall appear, they may appear with him in glory. When Sick perſons deſire the prayers of the congregation, it is like an intimation and ſuit to theſe who have any moien with God to pray for them in Secret, and continue ſo to do, as well as in public. Peculiar Admonitions to the Sick, & exhortations to ſuch as are preſent.

Why the Sick Roll is Read in public.

TITLE VII.

Of Burial of the Dead, Lyke-wakes, and Dirges.

§ 1. BY the Directory for Worſhip, upon the day of Burial, the dead body is to be attended decently, ſuitable to the rank of the deceaſed party to the Burial-place, and there immediately interred without any ceremony. It is moſt convenient that at ſuch occaſions, we have meditations and conferences ſuited thereto, and that the Miniſter as upon other occaſions, ſo at this time if he be preſent, may put them in remembrance of their duty. The manner of Burial.

§ 2. By the old Book of Diſcipline in Mr. Knox's time, annexed to the old Paraphraſe of the Pſalms; After Burial, the Miniſter, if preſent and deſired, goeth to the Church, if it be not No Funeral Sermons.

far off, and maketh ſome comfortable exhortation to the people, touching Death and the Reſurrection. But by the Act of Aſſembly 1638, Seſſ. 23, 24. Art. 22, all Funeral Sermons are diſcharged.

Nor Burial in the Body of the Church.

§ 3. By the Act of Aſſembly 1643, Seſſ. 9, they Diſcharge Burials, and hanging of honours, broads and arms of perſons of whatſoever quality, within the kirk where the people meet for public Worſhip: For perhaps at ſome times the people would be incommoded with open Graves. Biſhop HALL of Norwich was of opinion that God's Houſe was not a meer repoſitory for the Bodies of the greateſt Saints.

Like wakes and Dirges diſcharged

§ 4. By the Acts of Aſſembly 1645, Seſſ. 8. Aſſembly 1701, Seſſ. ULT, all Lyke-wakes are diſcharged, as Foſtering Superſtition and Profanity through the Land. No doubt, Dirges have likeways had as bad effects, and from the ſame reaſon may be alſo underſtood to be diſcharged.

TITLE VIII.

Of Miniſterial Viſitations of Families.

Annual Viſitations of Families the Cuſtom of this Church.

§ 1. IT hath been the laudable practice of this Church, at leaſt once a Year, (if the largeneſs of the Pariſh, or bodily inability, or other ſuch like do not hinder) for Miniſters to viſit all the Families in their Pariſh, and oftner if the bounds be ſmall, and they able to perform it. Among other reaſons for theſe Annual Viſitations of Families, this may be one, that becauſe by the order preſcribed by our Lord, Matth. xviii. there may be ſeveral offences known to Miniſters, Elders or Neighbours, which may juſtly keep back Offenders from partaking of the Lord's Supper, and yet it were diſorderly and unediſing to remove theſe offences in a public way, theſe Viſitations may ſerve to purge a congregation of ſuch private Scandals.

The Deſign of the following Overtures.

§ 2. Although in regard of the different circumſtances of ſome Pariſhes, Families and perſons, much of the management of the work muſt be left to the prudence and Diſcretion of Miniſters, in their reſpective overſights; Yet theſe following directions are offered by Aſſembly 1708, April 27th, as helps for the more uniform and ſucceſsful management thereof, that it be not done in a ſlight and overly manner, which ſuppoſeth the univerſal practice thereof through this Church, and that the total neglecters may be cenſured therefore as ſupinely negligent.

Time of Viſitations its intimation, &c.

§ 3. Such a time of Year is to be choſen for Miniſterial Viſitation, as the Families which he viſits may be beſt at leiſure to meet with him, and if that time ſhould happen immediately after the communion, then it is ſeaſonable, as it were, to beat the iron while it is hot. Timeous intimation is to be made to them of the Viſitation: And the Elder of that bounds of the Pariſh

which is to be visited, is to accompany the Minister, and they should privously confer together concerning the condition and state of the persons and Families of those Bounds.

First work to salute the Family, enquire for their names, Testimonials, &c.

§ 4. When they enter a House, they are to express their wishes and desires for the blessing of God upon it, and that above all, their souls may prosper: Then let them take an account of the names of the Family, enquire for Testimonials from them who are lately come to the Parish, and mark them in the Roll for Catechising, and let them take notice who can read, and of the age of Children capable to be catechized; Then the Minister is to speak to them all in general, of the necessity and advantage of godliness, of justice and charity towards man.

Servants spoken to in particular.

§ 5. He is next more particularly to speak to Servants of their duty, to Serve and Fear God, to be dutiful, faithful and obedient Servants, and of the promises made to such, commending to them the reading of the Scriptures, and Secret Worship, and love and concord among themselves, and in particular, a Holy care of Sanctifing the Lord's Day.

Children to be spoken to.

§ 6. The Minister is to show the Children and young Servants the advantage of knowing, seeking and loving God, and remembring their Creator and Redeemer in the days of their Youth, and to mind them how they are dedicated to God in Baptism; and when of age, and after due instruction in the nature of the Covenant of Grace, to excite them to engage themselves personally to the Lord, and to design and prepare for the first opportunity they can have of partaking of the Lord's Supper, to be especially careful how they at first communicate.

Heads of families spoken to.

§ 7. Then he is to speak privately to the Heads of the Family, about their personal duties towards God, and the care of their own Souls; and their obligation to promote Religion and the Worship of God in their Family, and to restrain and get vice punished, and piety encouraged, and to be careful that they and all in their House Serve the Lord, and Sanctify his day. He is more particularly to enquire (1.) Whether God be worshiped in the Family, by Prayers, Praises, and Reading of the Scripture? (2.) Concerning the Behaviour of Servants towards God and towards Man, if they attend Family and Public Worship? How they Sanctify the Lord's Day? and if they be given to Secret Prayer and Reading the Scriptures? (3.) If there be catechizing in the Family; If their Children be trained up in Reading, according to the Act of Assembly August 10th, 1648, in all which the Minister may intermix suitable directions, encouragments and admonitions as may be most edifing.

General Questions & Exhortations.

§ 8. The Minister is to enquire who want Bibles? And if they be not able to buy them, let the Poor's Box be at the expenses; And recommended to the Heads of the Family to get the Confession of Faith, Catechisms, and other good books, for instructing in life and Faith, according to their ability. (2dly,) Those

who are tainted with error or vice are to be admoniſhed ſecretly, or in the Family as may moſt edify: and all are to be exhorted to carry toward ſuch as walk diſorderly according to the Rule, Matth. xviii. 15. (3dly.) The Miniſter is to endeavour to remove diviſions in the Family, or with their Neighbours, and exhort them to follow peace with all men as far as is poſſible. (4thly), Let it be enquired who have communicated, that they may be called to an account privately how they have profited, and put in mind to pay their vows to the Lord. Confer alſo with others about the cauſes of their not communicating.

How to viſit ſuch as keep not communion with us.

§ 9. As for thoſe who pretend conſcience for not keeeping Communion with us, or whatever their motives be, Miniſters ought to deal with God for them, and with themſelves in ſuch a way as may be moſt proper to gain them, and exoner their conſciences, waiting if peradventure God will prevail with ſuch. Who can tell if their making them ſenſible of their tender love and affection to their perſons, eſpecially to their Souls, giving them all due reſpect, and doing them all the good they can, yet ſtill diſcountenancing their ſin, may in the end be bleſſed of God for their good, Jud. v. 22, 23, 2 Tim. ii. 24, 25.

Viſitation a Difficult work.

§ 10. Seeing in the whole of this work, there is great need of much prudence, zeal for God, and love to Souls: Viſitation of Families ſhould be carried on with dependance on God, and fervent Prayer to him both before a Miniſter ſet forth to ſuch a work, and with the viſited, as there can be acceſs to, and opportunity for it.

TITLE IX.

Of Sanctification of the Lord's Day; and obſerving Faſt and Thankſgiving Days.

How the Sabbath is to be Sanctified.

§ 1. THE Sabbath is to be ſanctified by an Holy Reſting all that day, even from ſuch worldly employments and recreations, as are lawful on other days, and ſpending the whole time in the public and private exerciſes of God's worſhip, except ſo much as is to be taken up in the works of neceſſity and mercy, as our Shorter Catechiſm beareth, authorized by Aſſembly Auguſt 28th, 1648, from which we may gather what the Church underſtands by Sanctifing or profaning of the Lord's Day, and ſo will either approve or cenſure:

How to be ſanctified in private Families.

§ 2. By the Act of Aſſembly 1647, concerning Family Worſhip, Dir. 8, the maſter of the Family ought to take care, that all within his charge repair to the public worſhip, which being finiſhed, he is to ſee the reſt of that day ſpent in the private and ſecret exerciſes of piety. Care is alſo to be taken that the diet on that day be ſo ordered, that neither Servants be unneceſſarily detained from the public Worſhip of God, nor any other perſons hindred from Sanctifing that day. Private preparation is

likewiſe to be made for the Sabbath, by prayer and ſuch holy exerciſes, as may diſpoſe to a more comfortable communion with God in his public ordinances. See the Directory.

Times for Faſting, and how obſerved.

§ 3. When ſome great and notable judgments are either inflicted or imminent, or by ſome extraordinary provocation notoriouſly deſerved; As alſo when ſome ſpecial bleſſing is to be ſought or obtained, when great duties are called for, or when ſins are extraordinary for their number or nature, then it is that a Church may injoin Faſting: Which is obſerved by a total abſtinence, not only from all Food, (unleſs bodily weakneſs do manifeſtly diſable from holding out till the Faſt be ended, in which caſe ſomewhat may be taken, yet very ſparingly, to ſupport nature when ready to faint) but alſo from all worldly labour, diſcourſes and thoughts, and from all bodily delights though at other times lawful, rich apparel, ornaments and ſuch like, during the Faſt: And much more from whatever is in its nature or uſe, ſcandalous or offenſive, as gadiſh attire, laſcivious habits and geſtures, and other vanities of either Sex: Which the compoſers of the Directory recommend to all Miniſters in their places diligently and zealouſly to reprove, as at other times, ſo eſpecially at a Faſt.

Intimation of the Faſt. Materials for public Prayer.

§ 4. The Sabbath before the Faſt, the cauſes thereof are publicly read from the Pulpit, and the day of the week intimated upon which it is to be kept. The people are then to be earneſtly exhorted to prepare themſelves for afflicting their Souls upon that day of extraordinary humiliation. So large a portion of that day, as conveniently may be, is to be ſpent in public reading and preaching of the word, with ſinging of Pſalms, fit to quicken affections ſuitable to ſuch a duty, but eſpecially in Prayer to this or the like effect. Giving glory to the Great majeſty of God the Creator, Preſerver and Supreme Ruler of all the World, acknowledging his manifold great and tender mercies, eſpecially to the Church and nation, humbly confeſſing ſins of all ſorts, with their ſeveral aggravations, juſtifing God's righteous Judgements, as being far leſs than our ſins deſerve, yet humbly and earneſtly imploring his mercy and grace for ourſelves, the Church and Nation, the Queen and all in Authority, and for all others for whom we are bound to pray (according as the preſent exigent requireth) with more ſpecial importunity and enlargement than at other times: Applying by Faith the promiſes and goodneſs of God for Pardon, Help, and Deliverance from the evils felt, feared, or deſerved: and for obtaining the Bleſſings which we need and expect, together with a giving up of ourſelves wholly, and for ever unto to the Lord.

Several Faſts, General and particular.

§ 5. Beſide Solemn and General Faſts appointed by the Aſſemblies or their commiſſions, or by Civil authority, upon appli- cation from ſome Church-Judicatory unto them; Provincial Sy-

nods, Presbyteries, and Church-Sessions may appoint Fast-days to be kept within their respective Bounds, as divine providence shall administer unto them special occasions. Likeways Families and particular persons may do the same, providing their Fasts be not on those days on which the congregation is to meet for public worship.

When the Church should be most Cautious in appointing Fasts.

§ 6. Our Fasting days must be indicted for such causes as are both clear and just, and when it will be most for edification: For that, as other positive duties, doth not always bind: Therefore the Church is to take heed of appointing Fasts through insinuations or solicitations from states-men, lest they be branded as tools, to some who would Fast for strife and debate, that others who differ from them about state-matters may be exposed to the ODIUM of the people, as ill country-men.

Causes of a Fast in this national Church.

§ 7. The Causes of the Fast enumerate in the Act of Assembly 1690, November 12th, were these and the like. 1st, Perjury, dealing treacherously with the Lord, and being unstedfast in his Covenant. 2dly, Unfruitfulness under the purity of doctrine, worship and government, having a form of godliness, but denying the power thereof. 3dly, Abuse of God's great goodness and deliverance, evidenced by a course of manifest wickedness, and shameful debauchery, such as Drunkenness, Cursing, Swearing, Adultery, and Uncleanness of all sorts. 4thly, The Supremacy, which was advanced in such a way, and to such a height, as never any Christian Church acknowledged, and whereby the interest of our Lord Jesus Christ was entirely sacraficed to the lawless lusts and wills of men. 5thly, Abjured Prelacy was introduced, and the Government of the Church was overturned, without the Church's consent, and contrary to the standing Acts of our national Assemblies. 6thly, Complyance with that defection, both in Ministers and others, some from a principle of pride and covetousness, or man-pleasing, and others through infirmity and weadness, or fear of man and want of courage and zeal for God. 7thly, Persecution of the godly for non-compliance with that sinful course: Many faithful Ministers were cast out, and many insufficient and scandalous men thrust in on their charges, and many Families ruined because they would not own them as their Pastors. 8thly, Decay of Piety under the late Prelacy, so that it was enough to make a man be nick-named a Phanatic, if he did not run to the same excess of riot with others. 9thly, Atheism, which discovered itself in some by their dreadful boldness against God, in disputing his being, and providence, the divine authority of the scriptures, the life to come, and immortality of the Soul; Yea, and scoffed at those things. 10thly, Imposing and Taking Unlawful Oaths and Bonds: Lawful Oaths have been broken, and ungodly and conscience-polluting Oaths have been imposed and taken, whereby the consciences of many through the land are become so debauched that

they ſcruple at no Oath, though many have been oppreſſed and ruined for refuſing them. 11thly, Neglect of the Worſhip of God, both in public, in private Families, and in Secret. 12thly, Profanation of the Lord's Day, ſucceeded in place of that wonted care of ſtrict and religious ſanctifing of it. 13thly, The ſhedding of innocent Blood. 14thly, Pride and Vanity, yea Sodom's ſins have abounded among us, idleneſs, fulneſs of bread, vanity of apparel, and ſhameful ſenſuality filled the land. 15thly, As alſo Great perverting of Juſtice, by making and executing unrighteous ſtatutes. 16thly, Silence of Miniſters in the time of ſuch a great defection, as well as too general a fainting among profeſſors: And as ſome ſhewed no zeal in giving ſeaſonable and neceſſary teſtimony againſt the defections and evils of the time, nor kept a due diſtance from them; So, on the other hand, ſome managed their zeal with too little diſcretion and meekneſs. 17thly, The abominable Idolatry of the Maſs was ſet up in many places, and Popiſh Schools erected, whereby ſhameful advances were made towards popery. 18thly, Great Ignorance of the way of Salvation through the Lord Jeſus Chriſt. Though we profeſs to acknowledge there can be no pardon of ſins, no peace and reconciliation with God but by his blood, yet few know him, or ſee the neceſſity and excellency of him, and few eſteem, deſire, or receive him as he is offered in the Goſpel: And as few are acquainted with Faith in him, and living by Faith on him, ſo few walk as becometh the Goſpel, and imitate our Holy Lord in Humility, Meekneſs, Self-denial, Heavenly Mindedneſs, zeal for God and charity towards men. 19thly, Great Contempt of the Goſpel, barrenneſs under it, and a deep ſecurity under our ſin and danger. 20thly, Though the Lord, by caſting us into the furnace of affliction, hath been giving us a ſight of the vanity of all things beſide himſelf; Yet, to this day, there is a woeful ſelfiſhneſs among us, every one ſeeking his own things, few or none the things of Jeſus Chriſt, the public good, or one anothers welfare. 21ſt, A bitter ſpirit of cenſoriouſneſs, whereby the moſt part are more ready to carp at the ſins and defections of others, than to repent and mourn for their own. Theſe and the like were the cauſes of the Faſt in the Year 1690, and to them the Faſts appointed ſince, do ordinarily refer. See alſo how the land expreſſed the ſenſe it had of the guilt of all ranks in the ſolemn acknowledgment of public ſins, and breaches of the Covenant; and a ſolemn engagement to all the duties contained therein; Namely thoſe which did in a more eſpecial way relate unto the dangers of that time. Act of the commiſſion of Aſſembly October 6th, 1648, for renewing of the ſolemn league and Covenant ratified by Aſſembly thereafter.

§ 8. Albeit by the treatiſe of Faſting emitted by the Aſſembly, 25th Decem. 1565, the Sunday's were appointed for ſome faſts, as being for the greater eaſe of the people: and ſin-

No Faſt to be on the Lord's day.

by the laſt Act of Aſſembly, 1646, a Faſt is appointed on the Sabbath next except one, preceeding the then following General Aſſembly: Yet ſeeing the work to be performed on the firſt day of the week, is by divine inſtitution already determined, we ought to ſet about it exactly, which we all acknowledge to be a thanksgiving and not a faſt. Extraordinary duties are not to interfere with the ordinary, nor is one duty to ſhuffle out another. If either ſhould be allowed, it would look ſomewhat like the reverſe of redeeming the time, for thereby diligence is rather diminiſhed, than doubled in the ſervice of God.

Thankſgiving days how obſerved.

§ 9. Days of thanksgiving being intimate on the preceeding Sabbath, for ſome deliverance obtained, or mercy received, are wholly to be ſpent in the public and private exerciſes of divine worſhip and praiſes, the people are to rejoice with trembling, and to beware of all exceſs in eating and drinking. And demonſtrations of civil mirth, ſuch as ringing of bells, fireing of guns, bone-fires, and illuminating of windows ſhould not be intermixed with the religious duties of that day: but as upon faſts, ſo upon thoſe days, there ſhould be liberal collections for the poor, that their bowels may bleſs us, and rejoice the more with us. In the 6 §. the Church was cautioned againſt appointing Faſts for ſtrife and debate, ſo I hope they ſhall be directed to avoid injoining of thankſgiving days from any falſe or unjuſt ends.

TITLE X.

Of Collections and Recommendations for the poor.

When collections for the poor are made.

§ 1. BY the Act of Aſſembly 11th Auguſt, 1648, Collections for the poor in time of Divine Service (which is practiſed in ſome Churches abroad) are diſcharged, as being a very great and unſeemly diſturbance thereof. And Church Seſſions are ordained to appoint ſome other way for receiving theſe Collections. The method now ordinarly taken is this; The Elders or Deacons do Collect at the Church-door from the people as they enter inn, orelſe from them within the Church, immediately before pronouncing the bleſſing and after divine ſervice is ended.

Extraordinary collections.

§ 2. Beſide theſe ordinary Collections for the poor, there are frequently Extraordinary Collections made for charitable and pious uſes, particularly by Seſſion 10, Aſſembly 1704, there is an Act for a voluntar contribution by way of ſubſcription in each Preſbytery, for gathering from Noblemen, Gentlemen, and other charitably diſpoſed people, for erecting Engliſh Schools, and educating Youth in the High-lands and Iſles.

Recommendations are for a definite time.

§ 3. For preventing unneceſſary begging, or impoſing upon charitable people, no Church Judicatory is to give recommendations for charity to any without their own bounds, and theſe re-

commendations, are to be only for a definite time. Assembly 1695, Sess. 17.

TITLE XI.

Of Provision for Schools and Universities.

How Salaries for School-masters are established.

§ 1. BY King William's Parliament, Sess. 6. Cap. 26, it is appointed that there be a School-master and School in every Parish, his fee not under One Hundreth merks, nor above two to be paid by the Heretors and life-renters of the Parish, who are to have relief for the half of it, off their Tennents; And that letters of horning be therefore directed at the instance of the School-master, conform to the proportions due by the Heretors, laid on by the major part of them, (I suppose, conveened by public intimation from the Minister in the Pulpit, by order or advice of the Session) or failing of whom by any five commissioners of supply, within the shire upon the Presbyteries application to them: and the Heretors for the sallary are to be stinted conform to their valued rent. ITEM, provision for Schools and School-masters are declared to be a pious use, to which patrons may employ vacant Stipends, at the sight of the Sheriff of the bounds. Excepting from this Act the Stipends vacant in the Synod of Argyle, because of the Act Par. William and Mary's, Sess. 2. Cap 24, in their favours. And by the 10th Act, Assembly 1699. It is Recommended to the several Presbyteries, to use their endeavours, that Schools be erected in every Parish conform to the Acts of Parliament, and Acts of Assembly, and it is recommended to Synods to see this observed.

School revenues privileged.

§ 2. By the foresaid 26 Act, and likeways by the 14 Act of the same Session of Parliament, the privileges granted to Ministers for their Stipends, viz. That there be no suspension, except on consignation, are extended to Universities, Schools and Hospitals, for the ingathering of their rents and debts. See more of this on the Title of Mortifications and Ministers Stipends.

The Maintenance for School masters & Precentors to continue, though they read not.

§ 3. When the Directory was established, by which public Reading of the Scriptures was committed to the Preachers: and fearing left the maintenance on that pretence might be withdrawn from the readers. The Assembly did August 6th, 1649, require the Presbyteries, to see, that none of the maintenance given to such Readers, Precentors and School-masters be taken from them, notwithstanding that recommended alteration in the Directory.

How far Universities may set tacks of their teinds

§ 4. A Tack or lease of teinds set by an University for a definite time, with an obligement to renew the same in all time thereafter, was found not effectual after the definite time was expired; though the same rent was received for some Years after, that was not sustained as an homologation, but as a tacite reloca-

tion. VID, Stair's INSTIT. pag. 301. So that after the definite time is expired, they might increase the Tack-Duty.

Extraordinary supply for Universities & Schools.

§ 5. So careful have our Sovereigns and Parliaments been for the flourishing of these seminaries of Church and State, that for their provision and bettering of their stocks, they have sometimes upon the offer made by the Clergy, ordained Fourty Pounds, or six per cent, out of every Thousand merks of Ministers Rents, to be paid yearly for five years, Car. 2. Par. 1. Sess. 3. Cap. 24, and at other times vacant Stipends are assigned for their better Provision for a time, Car. 2. Par. 2. Sess. 3. Cap. 20. James VII. Parliament 1. Cap. 18, they have likeways imposed a Cess upon the kingdom for preserving of some Universities, Car. 2. Par. 3. Cap. 23, now the Universities by gift under the great seal, do share liberally of the Bishops Rents, and some of them have lucrative and easy Tacks of certain Bishopricks, and large allowances too, even out of these Tack-Duties sometimes, for sallaries to new professions.

TITLE XII.

Of the Immunity and Union of Churches.

Local privileges within Church-Walls and Yards what and how far extended.

§ 1. BY the Canon Law, there are certain Immunities or privileges granted within Church-walls and Church-Yards, called Local, so as that secular judges within that bounds can cognosce upon no civil or criminal action: Also that no incorporations, councils, or fairs meet or hold there: that there be no University discourses there: that secular affairs be not the subject of any conversation there; Moreover that there be no feastings there, and that these bounds be sanctuaries to the guilty flying there for refuge, and they are not to be pulled thence to punishment, unless the atrocity of the crime be such, as may induce the Church to surrender them. This privilege is also extended to the houses and Palaces of Bishops. The Temple of Jerusalem was Built by God's direction, it was dedicated by man, and God's acception of it was testified. It appears by John ii. 19, that it was an illustrious Type of Christ's body, and by the 16 ver. we find that our Lord resented the profanation of that holy place. Yet, notwithstanding of all that, God doth so abhore proud and malicious sinners, that he commands them to be taken from his alter that they may die, Exod. xxi. 14, and Joab was slain in the Tabernacle of the Lord, 1 Kings ii. 31, but that special kind of respect which was due to that hallowed and Typical Temple, is not communicate, extended or confined to the places of worship under the New Testament, John iv. 21.

Personal Immunity, how far allowed to Ministers.

§ 2. Likeways by the Canon Law, there is another Immunity or privilege, called Personal, granted to the Clergy, such as, that they are excused from accepting to be tutors or curators, and that none in sacred orders shall be liable to the payment of

public burdens. I acknowledge, Miniſters ought not to be ſo impoſed upon as to be perplexed with ſecular affairs, and far leſs ſhould they ever do it of choice: And albeit the vocation of a Paſtor, his commiſſion and inſtructions relating thereto, be all of a ſpiritual nature, and of divine original, yet their perſons, eſtates and behaviour, conſidered in a civil capacity, are, according to ſcripture and reaſon, ſubject to the civil government. Their perſons are accounted ſo ſacred among our people, and they judge themſelves ſo ſecure from that venerable impreſſion, they very well know, is generally received of their character, that they rarely make ordinary journies with arms, as gentlemen and other travellers do. They are by law ſtill exeemed from attending the King's hoſt, except the nation become ſo miſerable, that neceſſity or their own ſecurity oblige them: And even in that extraordinary caſe, they may, if they pleaſe, only Act in the army as Miniſters or Chaplains. Since the year 1689, both poll and hearth-money have been impoſed upon Miniſters by authority of Parliament.

When Churches & Stipends are to be united.

§ 3. By the Canon Law on this Title, Two Churches may be made one, when the maintenance is ſo inconſiderable, that Two Paſtors can have no comfortable living upon them, or when one of them is become deſolate by the Sword of an enemy, or the number of pariſhioners ſmall or very much diminiſhed. In which caſe it would be for the greater good of the Church, if two ſuch ſmall charges were reduced into one, providing the benefice of the ſmall charge, now united, be not condemned to any ſecular or other uſe, but only applied to maintain a Paſtor in a new erection, or elſe a collegue in ſome numerous congregation: for two competent Stipends are not to be united, till there be no need for any new erection or augmentation in the Church.

When Presbyteries may authorize partial union, or tranſplantation of Churches.

§ 4. If the heretors and Elders of two Church Seſſions ſhall agree to the uniting of ſome parts or ſkirts of one of the Pariſhes to another, or to tranſplant the Church from one part of the ſame Pariſh to another part therein, for the peoples greater eaſe and convenience. In that caſe, the Preſbytery upon application of the parties concerned, may, for any of theſe ends, interpoſe their authority to their agreement, providing they find it may tend to the greater eaſe and edification of the people; and providing there be ſtill two diſtinct Pariſhes, and the quantity and quality of both Stipends preſerved un-diminiſhed and unaltered. What I here propoſe, is conform to the 5th Art. Cap. 7. of the French Church Diſcipline in theſe words, "The colloquies and "Synods ſhall deliberate of limiting the extent of places where-"in each Miniſter ſhall exerciſe his Miniſtry.

TITLE XIII.

Of Churches, Church-Dikes, Manſes, Yards, Glebes, Bells, Utenſils, Ornament, Books, and High-Roads to Churches.

What a Church is, & by whom to be Repaired.

§ 1. CHURCHES are public houſes erected for public divine worſhip, and for hearing the preaching of the word of God; They are to be repaired out of the Vacant Stipend: For that 18 Act, James VII. Par. 1. is never yet in ſo far reſcinded. And when the Vacant Stipends fail, the burden of building and repairing the Church doth lie upon the Heretors, whether reſiding in the Pariſh or not; The majority of theſe that meet, muſt ſtint themſelves for that effect, according to their rents. But if the Heretors refuſe, being required thereto by the Miniſter from the Kirk-Seſſion; The Lords of Seſſion upon a bill given in by the Miniſter will grant warrant to him and his Seſſion to conveen at a certain day, for trying what ſum will repair the Church, and to ſtent the Heretors in that ſum conform to their valued rents, and to appoint a collector to uplift the ſame. But before the making up of that ſtent-roll, the Heretors ought again to be publicly advertiſed to meet, and then to make the ſame. If after this order is uſed, they fail, the Seſſion then concludes, the ſtent, and letters will be direct at their collectors inſtance againſt the Heretors for paying the proportions they are ſtented in, Stair's INSTIT. page 192, and Act ULT. Par. 3. James VI.

Church-Yards, and Yard dikes.

§ 2. Church-Yards are dormitories for human bodies, and ordinarly that ſpot of ground within which the Church ſtands. Our law allows to Church-Yards equal privileges within Churches in many things; particularly, that the raiſing of tumults or frayes in time of divine ſervice in Churches, or Church-Yards, is puniſhed with loſs of moveables, Act 27. Par. 11. James VI. The Church-Yard is fenced with Dikes, partly for Ornament, and partly as a preſervative to the dead bodies from being digged up or violented by beaſts. The only right that Miniſters have to the graſs growing in the Church-Yards, is, that they may cauſe their Servants cut it, and hinder others from doing ſo: The Heretors are obliged to repair the Church-Yard-Dikes with ſtone and morter, two ells high, with ſufficient ſtiles and entries. And the Lords of ſeſſion are obliged to direct letters of horning againſt them for that effect, Cap. 232. Par. 15. Jac. 6.

Who are liable to Build and repair manſes.

§ 3. The Miniſter at the ſight of the Preſbytery, or ſuch of their number as they ſhall appoint, with two or three diſcreet men of the Pariſh, may build or repair his own Manſe upon the expenſes of the Heretors and life-renters, who are reſpectively liable to re-imburſe him, of what he truely and profitably hath beſtowed that way, unleſs they offered to contribute their own materials, and he refuſed them: ſee Machenzie's obſervations on

the 48 Act, Par. 3. Jac. 6. where there is a competent Manſe already, the heretors muſt repair it once ſufficiently at the Miniſter's entry, who is thereafter to uphold the ſame during his incumbency, and they out of the vacant ſtipend, in time of the vacancy. Act 21. Par. 1. Seſſ. 3. Car. 2. As the Miniſter is obliged to leave the Manſe in as good condition as he entered to it, ſo before he can be made liable ſo to do, the Heretors ought to move the Preſbytery to paſs an Act in their favours, to declare it a free Manſe; but before they can paſs any ſuch Act, a committee of their number muſt viſit it, after it is built or repaired, and find upon the depoſitions of four diſcreet workmen who underſtand that work, but have not been employed therein, two whereof to be choſen by the Heretors, and other two by the Miniſter, that the building or reparation is ſufficiently finiſhed. And if there be any materials left, or money remaining not expended, after that is declared, the Superplus belongs to the Heretors. If the Miniſter be not able or willing to advance that money which has been declared to be neceſſary for materials and workman-ſhip, or if Heretors refuſe to meet and ſtent themſelves for that effect, then what ſhould hinder the Miniſter to take the ſame courſe, and obtian the ſame redreſs that is granted againſt refuſers to build or repair Churches, as in § 1. and 2.

How much expenſe and Ground for Manſe, Yard, and Glebe.

§ 4. It is uſual to allow half an acre of ground for Manſe and Yard. The Manſe is not to exceed 1000 pounds nor to be under 500 Merks of value. Miniſters hold their Manſes and Glebes of none but the King. Glebes are to conſiſt of four acres of arable ground, failing of which ſixteen ſoumes graſs of the beſt and moſt commodious paſturage of any Kirk-lands within the Pariſh. Jac. 6. Par. 18. Cap. 7. and by the 21 Act Par. 1. Seſſ. 3. Car. 2. Miniſters (excepting Miniſters of burghs royal where there is no land-ward Pariſh, and who have no right to Glebes) are to have graſs for one horſe and two kine, or elſe that the Heretors pay to the Miniſter twenty pounds yearly.

Deſignation of Ground for Manſes and Glebes.

§ 5. Manſes and Glebes where they have not been deſigned, or not the full quantity, are now deſigned by the Preſbytery, or their committee with two or three diſcreet men of the Pariſh. The Miniſter or a Procurator in his name, receives infeoftment therein from the Moderator, upon which he takes inſtruments in the hands of a notar, or of the Clerk of the Preſbytery. And upon a petition given in by the Miniſter to the Lords of Seſſion, with the Act of Deſignation and inſtrument, they will interpoſe their authority for removing the Heretors and poſſeſſors of the lands deſigned in the terms of the 48 Act Par. 3. Jac. 6. by granting letters of horning to charge them to remove within ten days. And Glebes are deſigned with freedom of foggage, fewel, feal, divat, loaning, free iſh and entry, and other privileges according to uſe and wont. Jac. 6. Par. 13. Cap. 161.

How the Heretor of the Lands designed obtains relief.

§ 6. The proprietors of the lands designed must get Relief PRO RATA, off the rest of the Heretors of Kirk-lands within the Parish, if the designation was out of Kirk-lands, and they not being the Glebes and Manses of old pertaining to Parsons or Vicars: for there is no relief competent to the feuers or tacksmen of such lands, except only against such as have feus of other parts of the said old Glebe or Manse, Act 199. Par. 18. Jac. 6. When the designation is out of temporal lands, the rest of the Heretors of the like lands are to contribute proportionally for relief thereof.

Seats common & particular, how acquired, & how burdened,

§ 7. It would look more impartial like, and resemble more that humility, love, and simplicity recommended to Christians by the Apostle (Jam. ii. 1.) and would look liker the subjects of Christ's kingdom which is not of this world, if Church Members would take their Seats in the Church without respect to their civil character, as they do at the Lord's Table. Some Seats are built and repaired at the general charge of the Parish in which all have a common interest; And there are others which particular Heretors have built for their own use with consent of the Kirk-Session, or which they have prescribed a right unto by fourty years possession. In several Burghs Royal within this kingdom, the disposal of all the Church Seats, at least upon the bounds at first allotted to them for their inhabitants by the Kirk-Session, is thereafter ordered and parceled out by the Town-Council, and burdened with certain yearly sums for a Ministers Stipend, and where the Seats are disposed upon to burgesses without that burden, and it be found that without it there cannot be a competent Stipend to the Ministers. The dispositions and rights so made, may, no doubt, be reduced on that head; for it was never the intention of the Church Session, who gave these rights, to authorize an absolute alienation of Seats to the obstructing and preventing funds, for maintaing the public preaching of God's word.

Beddals should keep the keys of Seats; And why?

§ 8. The Keyes of Seats are to be kept by Beddals, that when the proprietors are absent, such as want Seats, or throng the Seats of others, may be accommodated for the time; But in case the owners be so little concerned with religion as not to countenance the public worship of God, or averse to serve such as attend upon it with their empty Seats, the people that want accommodation cannot be blamed to possess and occupy that void in their absence. And if the owners, or others by their order shall offer to dispossess them violently, especially in time of divine service, they should be prosecuted as disturbers of public worship, both before the civil Magistrate and Church Judicatories.

Who are the proprietors of Bells Books, &c.

§ 9. The Heretors are bound to pay for, and are stated in the property of the Bells, Books, Utensils, and Ornaments of the Church: But the Minister and Kirk-Session, to whose custody they are committed, may pursue for any of them that are

abstracted. A charge for a stent imposed for buying of Bells to a Church within a Burgh Royal hath been sustained against the land-ward Heretors, albeit the burgesses and indwellers would have more advantage by them, VIDE the new treatise, on Church Lands, page 212.

§ 10. Every one must have some way to the Church, but cannot pretend to any special way, as the nearest, through another man's land, without proving immemorial possession, which is reckoned fourty years, of such a gate or passage. And to make up this immemorial possession, a person will be allowed to conjoin his predecessors possession of that Road with his own. VIDE the forcited Book IBID. Kirk-roads.

TITLE XIV.

Of Tithes, Stipends, and Mortifications.

§ 1. THE maintenance belong to Ministers for their labours we call Stipends, but more commonly and by the Canon Law they are named benefices. CALVIN, in his LEXICON JURIDICUM tells us, that the rewards and priviledges given and granted of old to Soldiers for their service, were called Benefices and Stipends. The canonists define a Stipend or Benefice thus, *Est jus perpetuum percipiendi fructus ex bonis Ecclesiasticis, propter aliquod officium spirituale, auctoritate Ecclesiæ constitutum.* Whatever belongs to Church-men is likeways called the Patrimony of the Church, the word signifing an inheritance left by a Father; Because when legislators or private persons do authorize or distinate suitable encouragement for the comfortable life of Church-guides and Pastors, they do, in so far, act the part of Nursing Fathers unto the Church, in the 9 Chap. of the Policy of the Kirk, they comprehend under the Churches Patrimony, all things given, or to be given to the Kirk, and Service of God, as lands, buildings, possessions, annual rents, and all such like wherewith the Kirk is doted, either by Donations, Mortifications, or any other lawful Titles, together with the continual oblations of the faithful; As also Teinds, Manses, Glebes and such like, which by commom and municipal laws, and universal customs are possessed by the Kirk. And to take any of this Patrimony and convert it to the particular and private use of any person, is reputed a detestable sacrilege before God, by our Church. What is meant by Stipend, benefice, and the church-es Patrimony.

§ 2. The work of the Ministery is a Warfare, and it is not ordinary for Soldiers to maintain themselves without pay, 1 Cor. ix. 7, and the light of nature teacheth that the labourer is worthy of his hire. By the 42 Article of Cap. 1. French Church Discipline, it is found, that Ministers who are rich, and have of their own, should nevertheless take wages of their Flocks, lest That Stipends are due, & how much is competent.

their example do prejudice to other Paſtors and Churches. And M'kenzie and Stairs in their INSTITUTIONS do maintain that ſome part of our goods is due, by divine right, towards the maintenance of the Clergy, but that the proportion may be determined by human laws, according to circumſtances. By the 19 Act of Parliament, 1633, all Miniſters are appointed to be provided with ſufficient Stipends, being eight chalders of victual, or eight hundred merks at leaſt, beſide Manſe and Glebe, except in ſingular caſes referred to the commiſſion for plantation of Kirks. In ſome places of Scotland, Miniſters may maintain their Families for leſs than the half, which muſt be allowed to maintain the ſame Families in other parts of the kingdom. Seeing Miniſters do deny themſelves to the gain of civil employments, whereby they might have a more unlimited proſpect, not only of maintaining their Families, but of purchaſing ſtocks for their poſterity, therefore the Dutch cuſtom is not unreaſonable, which alloweth to Miniſters ſo much for every ſon, in order to his better education and breeding.

Tithes the fund for Stipends.

§ 3. The Canon Law defines Tithes thus, *Eſt quota bonorum mobilium, licite quæſitorum, pro ſacerdotibus Dei, Ipſius locum in terris tenentibus, tam Divina quam humana conſtitutione debita.* Miniſters Stipends and augmentations thereof are legal burdens, and the main one to which teinds are liable, againſt which no Title or right whatſoever can ſecure. And the truth is, till once the Pariſh Miniſter is ſufficiently provided, no perſon can ſafely buy his own teinds: For they are always ſubject to be evicted for that end, by the common law and our cuſtom, even after the Heretor has bought them, VIDE that new treatiſe on Tithes, pag. 340, by William and Mary's Parliament Seſſ. 4. Cap. 24, it is appointed that tiends belonging to their Majeſties by the aboliſhing of prelacy, ſo long as they remain undiſponed: As likewiſe tiends belonging to Colleges and Hoſpitals, or deſtinate to pious uſes, are not to be ſold, but may only be valued, and made liable thereafter for payment of the valued duties.

Some tithes cannot be ſold but only valued.

Plantation of Kirks remitted to the Lord's of Seſſion.

§ 4. Former Parliaments referred to their commiſſions the Plantation of Kirks and valuation of tiends: But now, the laſt Seſſion of the laſt Parliament, have in place of all further commiſſions for ſuch matters, empowered and appointed the Lords of Seſſion to judge in all affairs and cauſes, which by former laws did pertain to the cognizance and juriſdiction of commiſſions of Parliament: Only they are reſtricted from tranſporting of a Kirk without conſent of moſt of the Heretors of the Pariſh. Every Wedneſday afternoon in time of Seſſion, the Lords meet to call and diſcuſs ſuch Church cauſes.

How long church-men may ſet Tacks.

§ 5. By the 4th Act Par. 22 Jac. 6th. Biſhops are diſcharged to ſet in Tack longer than nineteen years, and inferiour beneficed perſons for longer ſpace than their own lifetime, and five

years thereafter (except the commiſſion authorize it) under the pain of deprivation; And further, the contraveeners declared infamous and incapable of any Church office. Longer Tacks were ordained to be regiſtrate within fourty days, in a particular book to be kept by the Clerk-Regiſter for that effect, otherwiſe to be null. And where it is ſaid, that the inferior Clergy can ſet Tacks to run five years after their Deceaſe, that is always to be underſtood with conſent of the patron, obtained either before or after the Setting of the Tacks: For without that they can ſet but three years Tacks, Act 15. Par. 23. Jac. 6. and that the eccleſiaſtical rents may ſuffice to their uſes, all alienations, ſetting of Feus, or Tacks of the Rents of the Kirk, as well lands as teinds, in hurt and diminution of the old rentals, ought to be reduced and annulled. And likewiſe that in all times coming, the teinds be ſet to none but to the labourers of the ground, or elſe not ſet at all. VIDE Cap. 12. of the policy of the Kirk, SUB FIN.

§ 6. The legal terms of paying or Vaiking of benefices and Stipends, are, Whitſundy, at which time the Fruits are held to be fully ſown, and Michaelmeſs, when they are preſumed to be fully ſeparated: If the incumbents entry be after Michaelmaſs, and before Whitſundy, he hath that whole year, if after Whitſundy the half of that year: Or if he die, be depoſed, or tranſported before Whitſunday he hath no part of that year, if after Whitſunday and before Michaelmaſs, he hath the half of that year. The terms of payment & Vaiking of Stipends.

§ 7. Albeit a benefice vaik when a Miniſter is depoſed, yet till the ſame be intimate, the Pariſhioners may pay their Stipends in to him, and his diſcharges will defend them. But after intimation is made, no payment will be ſuſtained. VID. Stair's INST. page 151. Benefices vaik upon intimation of the Sentences.

§ 8. The ANNAT due to the executors of Deceaſt Miniſters, is declared to be half a year's rent, over what is due to the defunct for his incumbency, viz. if he ſurvive Whitſunday, the half of that year is due for his incumbency, and the other half for the ANN: And if he ſurvive Michaelmaſs, the whole year is due for his incumbency, and the half of the next year for the ANN. And the executors need not to confirm it, Par. 2. Seſſ. 3. Cap. 13. Car. 2. neither can it be diſponed to ſtrangers by the defunct, nor affected by his creditors, for it did never belong unto him, it being only a gratuity which the law indulgeth, upon the account that Miniſters are ſuppoſed not to die rich. The ANNAT divides betwixt the relict and the neareſt of kin, if there be no Children, and is extended to the profit of the Glebe, if there be no new intrant: But where there is an intrant, the Glebe belongs to him, and is no part of the ANN, nor did belong to the former Miniſter, unleſs it was ſown by him, and the Crop upon it at the entry of the intrant, VID. Stair's INST. page 306. ANNAT, what it is, & to whom it falls.

The privileges of processes for Stippends.

§ 9. General letters of horning (so called, because they do not express Nominatim the persons to be charged) are allowed upon decreets of locality, Act 13. Sess. 2. Par. William and Mary's. And these letters are effectual, not only against the persons decerned in the decreets, but also against their heirs and singular successors possessing the lands affected with the locality. But summar horning was not sustained at the instance of a Minister's executor for his Stipend. Ministers poinding for their Stipends need not to carry the goods to the Market-Cross of the Head-Burgh of the proper jurisdiction, but may comprize them on the ground where they are, by honest sworn men, Act 21. Sess. 3. Par. 1. Car. 2, no suspensions of special decreets for Ministers Stipends can pass, except upon production of discharges or upon consignation of the sums charged for; and if victual be the subject of the charge, one hundred merks must be consigned for each chalder, and proportionally where less than a chalder is charged, without prejudice to the Lords of Session to modify more or less at the discussing, Act 6. Sess. 1. Par. 2. Car. 2. actions for Ministers Stipends commenced in inferior Courts cannot be advocated. Suspensions of and actions for them before the Session are discussed summarily, without abiding the course of the Roll; And suspenders, against whom Letters are found orderly proceeded, should be decerned in a fifth part more at least, than the sums charged for to pay the Ministers expences and damage, Act 27. Sess. 5. of King Williams Par.

Who dispose on vacant Local Stipends, & for what uses.

§ 10. Albeit the power of presenting Ministers by patrons to Vacant Churches be discharged, yet that is but prejudice to them of their right to employ the vacant Stipends on pious uses within the respective Parishes, except where the patron is popish, in which case he is to employ the same on pious uses, by the advice, and at appointment of the Presbytery; And in case the patron shall fail in applying the vacant Stipends for the uses foresaid, that he shall lose his right of administration of the vacant Stipend for that and the next Vacancy, and the same shall be disposed upon by the Presbytery to the uses foresaid. Excepting always the vacant Stipends within the bounds of the Synod of Argyle, which Synod is impowered to dispose thereof for training up of youth at Schools and Colleges, and for other pious uses with consent of the Heretors, William and Mary's Par. Sess. 2. Acts 23. 24.

Stipends QUOAD MODUM PROBANDI, prescribe in five years.

§ 11. Ministers Stipends prescribe, QUOAD MODUM PROBANDI, if not pursued within five years after the same are due: so that after that time they cannot be proven to be resting unpayed. Except by the oaths of the Defenders, or by a special writ under their hands acknowledging what is resting.

How by gone victual Bolls are liquidate.

§ 12. A Minister having charged for the payment of the Bolls contained in his decreet of locality, the debitor was ordained by the Lords to depone upon the prices he got; albeit he had of-

fered the fiars by way of inſtrument within ſeven days after the charge, and produced receipts of the charger and his predeceſſors, for inſtructing that they were not in uſe to uplift the Bolls IN IPSIS CORPORIBUS. It ſeems as unreaſonable to oblige a Miniſter to accept the fiars from the Heretors, as it were to oblige the Heretors to accept the fiars from their Tenants. Yet I think the liquid price of vacant Stipends according to cuſtom, is the fiar of the reſpective Shires, VID. that forecited Treatiſe on Tithes, page 427.

According to what meaſure, ſtipends are to be paid.

§ 13. The Bolls contained in a Miniſter's decreet, if no meaſure be therein ſpecified, ſhould be paid according to Linlithgow's meaſure: Unleſs the Miniſter hath been thirteen years in poſſeſſion of uplifting according to another meaſure, or the modified Stipend would fall ſhort of the quantity in the Act of Parliament by Linlithgow meaſure: For in that caſe the Miniſter ought to be paid conform to the meaſure of the Shire within which the Pariſh lies, VIDE that Treatiſe on Church-lands, page 428.

Eccleſiaſtical Penſions, what.

§ 14. An Eccleſiaſtical Penſion is a certain portion of yearly rent paiable for a time out of anothers benefice. Eccleſiaſtical Penſions ſeem to have been introduced at firſt, as a mean of ſubſiſtence to incumbents, who through ſickneſs or infirmity of old age were turned unable to officiate: For ſuch were allowed to reſign their benefices, reſerving to themſelves Penſions out of them, as they might live upon ſuitable to their former character. As Church-men turned afterwards more degenerate, and benefices became merchandize, reſignations and Penſions upon trivial reaſons were ſuſtained, VIDE Book foreſaid, page 160.

Plurality of benefices not to be tolerated in a Conſtitute Church, and why.

§ 15. The paſtoral charge, or the office of profeſſor of Theology in Schools, is of that weight and conſequence, that to diſcharge any one of them ſatisfingly, will be exerciſe enough to any honeſt man, however ſufficient, all the days of his life. By the Canons of the Synod of London, October 25th, 1597, in Bp. Sparrow's Collections, the extraordinary parts and merits of ſome is pretended for a ground to diſpenſe with a plurality. This were relevant to be practiſed for ſome time IN ECCLESIA CONSTITUENDA, where gifted men are rare: But to continue that cuſtom IN ECCLESIA CONSTITUTA, where gifts do abound, it were to neglect both the maintenance, and likewiſe the gifts of God that he hath beſtowed on ſome, and to over-value the gifts he hath given to others, and hinder them from diſcharging of the duties belonging to one office eminently. There were in Chriſt's time abundance of idle Phariſees, Scribes and Prieſts, that ſpent their time in teaching the people their Rites, Ceremonies and Traditions: But there were always but a few Labourers in God's Harveſt; Hence Chryſoſtom thought that but few Miniſters will be ſaved. What man or angel is ſufficient for the Miniſterial Work! But their ſufficiency is of God.

Mortifications under the Presbyteries inspection.

§ 16. By the 22d Act of Assembly 1700, Presbyteries are to take notice, how sums of money mortified, or otherwise belonging to the poor of the Parish have been managed and applied from time to time, and if they shall find dilapidations of any such sums, that those guilty thereof be pursued according to law, and the Synods are to see to the Presbyteries diligence herein.

Pious donations must be applied as they were destinate by the disponer

§ 17. By Cap. 6. Par. 1. Car. 1. Gifts, legacies, or donations for pious uses, must not be inverted from the specific use destinate by the disponer, and the persons intrusted are made countable for the same, and ordinary profits thereof to the Kirks, Colleges, and others to whom they are disponed, and this is extended to all such dispositions as have been made since the majority of King James the VI, and that letters be thereon direct.

Mortifications ought not to be accepted in prejudice of Blood Relations.

§ 18. That forcited Book on Church Lands, page 107, tells us, that Charles the great discharged Ecclesiastics to accept of mortifications whereby Children would in effect be dis-inherited. So good Augustine refused universal legacies in favours of his Church, when the testator left Children or Parents who might be prejudged and suffer thereby. Nor was this generosity of his singular, for a certain man having no Children, nor hopes of any, having gifted his estate to the Church of Carthage, only with the reservation of his own liferent, Aurelius the Bishop reponed him to his former right, upon the unexpected Birth of a Son.

The rectifing of Popish mortifications commendable, but not their misapplication, or extinction.

§ 19. By the 29th Act Par. 11. Jac. 6th, Popish benefices are annexed to the crown or converted into civil uses. Consider that these mortifications were fraudulently elicited from persons imposed upon by ways and means of priest-craft; And that they had been originally destinate to maintain an idolatrous and superstitious worship. Now, it being the public interest that none make a wrong, far less a sinful use of their property: It is incumbent on the Orthodox Magistrate, to convert what was mortified and fraudulently obtained for maintenance of idolatry, to the true worship of God: And in case there shall happen any excrescene, over and above what may support the same, and the Ministers thereof comfortably, then may not that be applied for some honest and necessary use in the republic, until the affairs of the Church require the same again? This is confirmed by the Policy of the Kirk, Cap, 12. Art. 14.

Visitors of Hospitals & mortifications to be named by the Sovereign.

§ 20. The Visitors of Hospitals are to be appointed by the Sovereigns, Act 101. Par. 7. Jac. 5. and accordingly by W. Par. Sess. 6. Cap. 29. there is a recommendation to his Majesty to cause Visit Hospitals, and enquire after mortifications. This is renewed Sess. 9. Cap. 21. it would seem by the 27 Act Par. 2. Jac. 1. that actions for bringing patrons and others to count for their intromissions with the rents of Hospitals, may be inten-

ted at the Chancellor's inſtance, eſpecially in caſe no Royal Viſitation be appointed.

§ 21. In the 9th and 12th Chapters of the Heads of Policy of the Kirk, they allow of a fourfold diſtribution of the Churches Patrimony; One portion thereof to be aſſigned to the Paſtor for his intertainment and hoſpitality: Another to the Deacons, Elders, and other Officers of the Kirk and Kirk Servants, ſuch as Clerks of Aſſemblies, Takers up of Pſalms, Beddals, and Keepers of the Kirk, joining with them alſo the Doctors, and Schools, to help their old rents where need requires. The third portion to be beſtowed on the poor Members of the Faithful, and on Hoſpitals. The fourth for reparation of the Kirks, and other extraordinary charges as are profitable for the Kirk, and alſo for the common-wealth if need require.

A fourfold diſtribution of the Patrimony of the Kirk.

§ 22. In the 12th Chap. of that Book of Diſcipline, the Collection and Diſtribution of all eccleſiaſtical goods or Patrimony, properly belongs to the Office of the Deacons, (ſee the Title of Deacons) that the poor may be anſwered of their portion thereof, and they of the Miniſtery live without care and ſolicitude, as alſo the reſt of the treaſure of the Kirk may be reſerved and beſtowed to their right uſes. If theſe Deacons be elected with ſuch Qualifications as God's word requires, there is no fear that they will abuſe their Office. Yet becauſe the giving ſo great truſt to them, appeareth to many to be dangerous, let them be obliged to find caution for their fidelity, that the Kirk rents be no way dilapidated.

Patrimony of the Church collected by Deacons, & why. They are to find caution.

The End of the Second BOOK.

BOOK III.

TITLE I.

Of Apoſtacy, and Atheiſtical Opinions of Deiſts.

What an Apoſtate is.

§ 1. APOSTATES are theſe who altogether deſert the Chriſtian Faith, yet ſometimes they are taken for ſuch as deſert that Holy Faith to which they are engaged at Baptiſm, and become profeſſors of a falſe religion. All Hereticsare not Apoſtates.

The Atheiſtical opinions of Deiſts, what.

§ 2. By the 21 Act of Aſſembly 1696, all Miniſters are injoined, where there is any apparent hazard of contagion from ſuch perſons as are of Atheiſtical Opinions, to detect the abominableneſs of their tenets, ſuch as, the denying of all revealed religion, and the grand miſtéries of the goſpel, viz. the Doctrine of the Trinity, the incarnation of the Son of God, his ſatisfaction to divine juſtice, juſtification by his imputed righteouſneſs to them who believe in his name, the reſurrection of the dead, and in a word, the certainty and authority of all Scripture Revelation; As alſo their aſſerting, that there muſt be a mathematical demonſtration for each purpoſe before we can be obliged to aſſent thereunto, and that natural light is ſufficient to ſalvation.

The Puniſhment of ſuch Deiſts.

§ 3. By the 11th Act of King William's Par. 1695, it is ordained, that whoever ſhall in their writing or diſcourſe deny, impugn or quarrel, argue or reaſon againſt the being of God, or any of the perſons of the bleſſed Trinity, or the authority of the Holy Scriptures, or the providence of God in the government of the world, ſhall for the firſt fault be puniſhed with impriſonment, ay and while they find bail to give public ſatisfaction in ſackcloath to the congregation within which the ſcandal was committed; And for the ſecond fault, the delinquent ſhall be fined in a years valued rent, and the twentieth part of his free perſonal eſtate, beſides his being impriſoned, ay and while he give ſatisfaction again UT SUPRA; And for the third fault, he ſhall be puniſhed with death as an obſtinate blaſphemer. VID. Tit. of Blaſphemy. Accordingly one Aikenhead was hanged for that crime betwixt Leith and Edinburgh about the year 1697. All judges and Miniſters of the law are injoined to execute this Act for the firſt fault, and all inferior Magiſtrates of Shires, regalities, ſtewartries, and their Deputes, and Magiſtrates of Burghs are to execute this Act as to the ſecond fault, and as to the third fault, the execution thereof is remitted to the Lords of juſticiary.

TITLE II.

Of Papists, Quakers, and Bourignianists.

§ 1. ACCORDING to the Canon Law, *Hæretici sunt illi qui vanæ gloriæ principatusque sui causa, falsas Opiniones gignunt vel sequuntur.* Anciently the word HÆRESIS was taken for a firm opinion, whether the same was good or bad. It is committed by Christians when they pertinaciously propogate or follow Opinions contrary to the received fundamental Doctrine of the Church. Heretics who they are.

§ 2. That no man should be compelled by temporal Punishments to profess the true faith, is a doctrine universally received among the reformed Churches. It is CRIMEN MERE ECCLESIASTICUM, at least as to its cognition PRIMA INSTANTIA. The reformed Churches never deliver any they find Heretics to the civil judge, or rather, according to the employment given the judges by Papists, the civil executioners. One continuing a Heretic ought to be rejected and excommunicated, compare Tit. 3. 10. with 1 Tim. i. 20, our Sovereigns by their coronation oath, are to root out all Heretics, that shall be convict by the true Kirk of God, from their empire of Scotland, which doth not oblige them to persecution, nor to pay blind obedience to the Church, but only it binds them, at least chiefly, to execute the laws against Papists, who are declared common enemies to all Protestant states, Jac. 6. Par. 16. Cap. 18. Punishment of Heresy.

§ 3. The severity of our laws against Papists will be further justified, if we consider, that by the law of God Idolaters were to be put to Death, Deut. xvii, and agreeable thereto, Popish Idolaters are to be punished with Death, by the 104 Act Par. 7. Ja. 6. by Ja. 6. Par. 6. Cap. 71, persons going out of the country for further knowledge of letters, are to have the Kings Licence, which shall contain this provision, that they shall adhere to the true Religion, and do nothing against it, under the pain of Barratry (which with us is committed by those who go to Rome to buy benefices, and is punishable by infamy and banishment, Ja. 6. Par. 1. Cap. 2.) And that within twenty days after their return, they make and give before their ordinary, the Confession of their Faith as now established, or otherways devoid the kingdom within forty days thereafter, or be pursued as adversaries to the religion. By Jac. 6. Par. 7. Cap. 104. None are to go on pilgrimage to Kirks, Chapels, Crosses, or the like, keep saints days, sing Carols within and about Kirks, or observe other superstitious papistical rites, under the Pecunial pains therein contained, for the first fault, and under the pain of Death to the continuers therein. By King William's Par. Sess. 5. Cap. 26, no Papist can make any gratuitous disposition or deed in Act of Parliament against Papists.

prejudice, of their apparent heirs; Declaring ſuch diſpoſition or deed to be null: And that it be judged gratuitous, unleſs the Granter, Writer, and Witneſſes, declare upon Oath before the Judge of the Bounds, that it was granted for an onerous adequate cauſe, by King William's Par. Seſſ. 9. Cap. 3. Theſe above mentioned Acts are ratified, with all other laws made againſt popery and Papiſts, eſpecially theſe againſt Jeſuites, Prieſts, or trafficking Papiſts, and all ſayers and hearers of maſs, and concealers of the ſame. ITEM, whoever ſeizes any Prieſt, Jeſuit, or trafficking Papiſt, or their reſetters, upon certificate of the conviction of the perſon ſeized by the Judge, ſhall have 500 merks for his reward from the Treaſury; For which the receiver general may be purſued before the Lords of Seſſion.——ITEM, if it be proven that the ſaid Prieſt, Jeſuit, or trafficking Papiſt was held in repute ſuch, or that he changed his Name, and ſhall refuſe the FORMULA of purgation ſubjoined to this Act, it ſhall be ſufficient ground for the council to baniſh him, never to return a Papiſt under pain of Death, to be inflicted by the Lords of Juſticiary. ITEM, if any perſon be found in any meeting where there is any altar, maſs-book, or other inſtruments of popiſh ſuperſtition, and ſhall refuſe to purge, as above, it ſhall be ſufficient ground to the council to baniſh, under any certification they ſhall think fit, even to that of Death; And whoſoever diſcovers and ſeizes the ſaid baniſhed perſon, after his return, ſhall have the foreſaid reward of 500 merks. ITEM, the 8. Act Par. 1. Car. 2. is ratified, and any Proteſtant relation, of his Majeſty's advocat or ſolicitor, may purſue for the exhibition and education of Children in the keeping of Papiſts: And the Lords of Seſſion are impowered to modify an aliment out of the Childrens or their parents means: And it is recommended to Preſbyteries to inform in this matter. ITEM, no Papiſt profeſſed, or not purging, can receive any voluntary deed or diſpoſition made to him of any lands, or real rights, or tacks of lands, or teinds, but the ſame are declared null, and to remain with the granter, and no action for warrandice or repetition of the price. ITEM, no Papiſt paſt the age of fifteen years, can ſucceed either as heir, or by other conveyance from the perſon to whom he may be heir, until he purge himſelf of popery, as above; And if being educate in the popiſh religion, he ſucceed as above, before the ſaid age, then he ſhall be obliged to purge before he attain the ſame; And the perſon ſo ſucceeding, failzieing in either of theſe caſes, devolves to the next Proteſtant heir, who is to be ſerved as ſuch to the defunct, and to have right to the eſtate and rents, from the ſaid irritancy, ay and while the perſon excluded, or his heir purge himſelf, as above; In which caſe he is to be reponed as before the excluſion; The interveening rents, with the burden of the current annual rents of debts, remaining with the Proteſtant ſucceſſor, but this excluſion to be

without prejudice of creditors before the excluſion. ITEM, no Papiſt may grant any gratuitous deed in prejudice of his heir, but the ſame is declared null, ſave as to the affecting the granters perſon and moveables: See the forcited 26. Act. Seſſ. 5. King William's Par. ITEM, the Proteſtant on whom the ſucceſſion devolves by the ſaid excluſion, muſt proſecute his right within two years, elſe it falls to the next, and ſo on. ITEM, the Papiſt and his heir muſt renounce popery within ten years, after the ſaid irritancy (minority not reckoned) or is to be excluded for ever; And the eſtate thus devolving, devolves with all its lawful conditions and burdens. ITEM, no voluntary right by a Papiſt, in favours of his apparent heir alſo a Papiſt, ſhall be of force though prior to this Act, unleſs cled with infeftment or poſſeſſion, or proceeded in judgment prior thereto. ITEM, all diſpoſitions or deeds in favours of cloyſters, or other popiſh ſocieties, are declared void, and to accreſce to the next Proteſtant heir to the granter. ITEM, no adjudication is to expire in the perſon of a Papiſt, but coming in the perſon of a Proteſtant, the legal being run, it expires within year and day thereafter, and no adjudication or real diligence is competent to a Papiſt, upon any gratuitous bond or deed. ITEM, that the FORMULA of purgation be taken before the Council, or before the Preſbytery, and reported within forty days to the Council. ITEM, a Proteſtant apoſtatizing to popery, forfaults his eſtate immediately to his next heir, being Proteſtant as if he were dead; And this next heir, if in pupillarity, is to be reckoned Proteſtant, if his education be ſuch, or if it be popiſh, he is excluded until he purge, as above. ITEM, that no ſuſpected Papiſt be capable of any truſt of the perſon or affairs of minors, and that none employ them in ſuch truſts, until they purge as above, under the pain of a year's valued rent, or a thouſand merks, if the valued rent be leſs. ITEM, no ſuſpect Papiſt may teach any ſcience, art, or exerciſe, in Families, or out with, nor may a Proteſtant have a popiſh domeſtic ſervant, under the pain of five hundred merks, which may be purſued by any Proteſtant, and upon conviction, to have the ſame for reward. By the 28. Act Seſſ. 6, of King William's Par. whoever perverts a Proteſtant ſubject to popery, ſhall be proceeded againſt as a trafficking Papiſt: That a Proteſtant ſervant turning Papiſt in a popiſh Family, be puniſhed as an apoſtate, and the maſter when required is obliged to diſmiſs that ſervant, never more to be received by him, or any other popiſh maſter, under pain of an hundred pounds; and that popiſh maſters allow their ſervants due liberty to attend Worſhip and Catechiſing, under the ſaid pain, and that theſe ſervants uſe that liberty, under the pain of being baniſhed the Pariſh. By the 5th Act 1. Par. Jac. 6, the ſayers and hearers of maſs, or ſuch as are preſent thereat, are puniſhed by confiſcation of all their goods, moveable and immoveable, and an arbitrary puniſh-

ment of their perſons for the firſt fault, baniſhment for the ſecond, and death for the third fault. By the 122. Act Jac. 6. Parl. 12, the ſayers of maſs, Reſetters of Jeſuits, Seminary Prieſts, and trafficking Papiſts, againſt the King's Majeſty, and religion preſently profeſſed within this Realm, is, and ſhall be a juſt cauſe to infer the crime and pain of Treaſon, providing how ſoon they ſatisfy the Prince and the Kirk, the penalty foreſaid ſhall not ſtrike againſt the reſetter. By the declaration of the eſtates, containing the Claim of Right, April 11th, 1689, it is declared, that by the Law of this Kingdom, no Papiſt can be King or Queen of this Realm, nor bear Office whatſoever therein.

Acts of Aſſembly againſt Popery.

§ 4. The lateſt and moſt comprehenſive Acts of Aſſembly againſt Popery, are theſe, by Act July 29th, 1640, all idolatrous monuments are appointed to be taken down and deſtroyed; and Preſbyteries and Synods are to ſee this work with all diligence performed. This is conform to the 64 and 90 CANONS, *Concil. Carthag. Ut Reliquiæ Idolorum radicitus extirpentur, ſimiliter placuit peti a glorioſiſſimis Imperatoribus, ut reliquiæ Idololatriæ non ſolum quæ ſunt in ſtatuis; ſed quæ ſunt in quibuſvis locis vel lucis vel arboribus, omni modo deleantur.* By Aſſembly 1642, Seſſ. 7, and 1648, Seſſ. 38, Preſbyteries are appointed to conveen known Papiſts in their Bounds, and oblige them within a month, to put from their company popiſh Friends and Servants, and give their Children above ſeven years of age, to be educated at their charges, by ſuch Proteſtant friends as the Preſbytery ſhall approve, and find caution within three months, to bring home ſuch of their children as are abroad, to be educated at the ſight of the Preſbytery: The obſtinate are to be proceſſed INSTANTER, and thoſe who comply are to conſer with profeſſors in the next Univerſity, in order to their converſion. ITEM, the government is to be ſupplicate for an Act, that in no Regiment that goes out of the Kingdom, any Papiſt bear office, and the Colonel to find caution for this effect. But the ſubſtance of this deſired Act, is already declared in the Claim of Right, and enacted by 9, Act Par. 1. Jac. 6. and the 5 Act Par. 2. Jac. 6. By the 8. Act of Aſſembly 1699, they appoint all Miniſters to ſtudy popiſh controverſies more. ITEM, that all due endeavours be uſed to unite Proteſtants among themſelves. ITEM, that Miniſters faithfully watch the Flock committed to them, that ſo by public preaching, private inſtruction and conference, apoſtacy may be prevented. ITEM, Miniſters are to deal wiſely and convincingly with thoſe who have fallen to popery, and other currupt practices, for their recovery. ITEM, when other means are ineffectual, Preſbyteries are appointed to proceed to Church Cenſur. ITEM, that according to the former Acts of Aſſemblies, and Acts of Parliament, the names of popiſh Prieſts and Jeſuits, and Trafficking Papiſts, and of thoſe who have ſent their Children to popiſh Colleges and Countries,

be given in to each provincial Synod, and by them transmitted to the respective Magistrates, to the effect, they be proceeded against according to Law, Car. 2. Par. 3. Act 6. ITEM, the General Assembly resolves, that application be made to the civil Magistrate, as often as need requires, for the vigorous execution of the Laws against Papists, popish School-masters, Mistresses, Governors and Pedagogues, and popish meetings, and for seeing to the Training up of popish Youth in the protestant religion. By the Assembly 1704, scandalous persons turning popish, or pretending to do so, to evite censure, shall after due pains to reclaim them, be excommunicated. By the 17 Sess. of Assemb. 1700, and 9 Sess. Assem. 1703, no private acknowledgment of a Papist's renouncing that religion verbally, is to be held sufficient to admit them unto Church privileges; But their reception thereunto, must be the deed of a Church Judicatory not below a Presbytery. By the 8 Act of Assembly 1707, it is appointed that the Synod in which these Presbyteries are, where popery increaseth, do sometimes send Ministers that are well acquainted with these controversies to assist the Ministers of the Bounds in conferring with the seduced, and for establishing others. ITEM, probationers, well seen in such controversies, are to be sent to assist the Ministers in these parts, in preaching, that they may have the more time to instruct the people, and watch over them against popery. All which Acts and recommendations, as to Ministers Diligence against popery, are revived by the 4th Act of Assembly 1708, Calderwood in his History p. 594, tells us of an Act against Papists made in that pretended Assembly holden at Linlithgow 1608, wherein they appoint that at every service of any person as Heir to his Father, or any of his predecessors, he be not served by any Judge without the Testimonial of the Bishop, and Moderator of the Presbytery, where he dwells, bearing the Confession of his Faith and integrity in the religion presently professed.

Papists not to be mocked.

§ 5. By the 23d Article Cap. 14th of the French Church Discipline, all violence and unbecoming Language against these of the Romish Church, and even against Priests and Friers, shall not only be hindred, but also wholly suppressed, as much as possibly may be.

Apostate and Ring-leading Quakers to be excommunicated.

§ 6. By the 10th Act of Assembly 1695, for preventing of the growth of these abominable Heresies of the Quakers, it is recommended to all Church Judicatories, to use all proper means for reclaiming of them, and in case of their obstinacy, to proceed against them with the censure of the Church, but especially against the ring-leaders or these who have apostatized from our holy Faith.

Errors of ANTONIA BOURIGNI-

§ 7. The Assembly 1701, by their 11th Act, finds, that the writings of M. ANTONIA BOURIGNION, are fraughted with impious and damnable Doctrines, as they are represented in the

Apology for her, condemned by the immediately preceeding Act, which exhibites to the world an EPITOME of her Errors in the faireſt dreſs; Such as, 1ſt, The denying the permiſſion of ſin, and the inflicting of vengence and damnation for it. 2dly, The attributing to Chriſt a twofold human nature, one of which was produced of Adam, before the Woman was formed, the other born of the Virgin Mary. 3dly, The denying the decrees of election and reprobation, and the loading theſe Acts of grace and Sovereignity, with a multitude of odious and blaſphemous Aſperſions, particularly, wickedneſs, cruelty, and reſpect of perſons. 4thly, That there is a good Spirit and an evil Spirit in the Souls of all men before they are born. 5thly, That the will of man is unlimited, and that there muſt be in man ſome infinite quality, whereby he may unite himſelf to God. 6thly, The denying of the Doctrine of divine prefcience. 7thly, The aſſerting of the ſinful corruption of Chriſt's human nature, and rebellion in Chriſt's Natural Will to the Will of God. And 8thly, the aſſerting a ſtate of perfection in this Life, and a ſtate of purification in the Life to come, that Generation takes place in Heaven, that there are no true Chriſtians in the world.

Or condemned.

TITLE III.

Of Schiſm and Prelacy, and of the Laws and Acts for preventing Innovations and Errors.

Schiſm, what.

§ 1. ACCORDING to the Canon Law, SCHISMATICUS EST QUI AB UNITATE ECCLESIÆ SE SEPARAT, Schiſm is to the Church what a cut is to the natural body, it may be where no hereſy in doctrine is; It is a breaking of that Church union and communion which ought to be among her members.

Schiſm about church goyerment.

§ 2. Schiſm in Church Government is either about the Government itſelf, or about the perſons in whom it is lodged, which difference may occaſion the erecting of ALTARE CONTRA ALTARE. Schiſm may be in worſhip, when both the ſame Doctrine and Government are acknowleged, but communion is not kept in the Lord's Supper, according to Chriſt's appointment, this ſeems in part to have been the Schiſm among the CORINTHIANS, occaſioned perhaps through the corruption of ſome members with whom others have ſcrupled to communicate.

When Schiſm is to be proceeded againſt.

§ 3. The underſtanding having ſuch influence upon the will and affections, and union having ſo much intereſt in both, the ſame will be more eaſily attained by perſuaſive reaſonings than authoritative injunctions. Though the authority of a Church may be interpoſed to condemn heretical and ſcandalous members, yet it is rarely found to be the way of Uniting a Rent Church, but rather the way to govern an united Church; For it often happens, where ſuch diviſions ariſe, that parties do re-

ciprocally decline each others authority: Indeed where Schism is only a ſpreading, or but among few, who cannot be otherways gained; In that caſe, the cenſures of the Church may be more ſucceſsfully applied againſt them.

§ 4. The General Aſſembly by their Act December 8th, 1638, having conſidered the proceedings of this Kirk, and Acts of General Aſſemblies in former years, the vote was ſtated, whether according to the Confeſſion of Faith, (i. e. the National Covenant) as it was profeſſed in the years 1580, 1581, and 1590, there be any other Biſhop, but a Paſtor of a particular Flock, having no pre-eminence nor power over his Brethren? And, whether by that Confeſſion, as it was then profeſſed, all other epiſcopacy is abjured, and ought to be removed out of this Kirk? The haill Aſſembly moſt unanimouſly (one only heſitating) did voice, that all epiſcopacy, different from that of a Paſtor over a particular Flock, was abjured in this Kirk, and therefore prohibits, under the pain of Eccleſiaſtical Cenſure, any to uſurp, accept, defend, or obey the pretended authority of Biſhops in time coming. By the Act of Aſſembly Auguſt 17th, 1639, it is declared, that the changing of the government of the Kirk from the Aſſemblies thereof to the perſons of ſome Kirk-men, under the name of epiſcopal government, was againſt the Confeſſion of Faith 1580, againſt the order ſet down in the Book of Policy, and againſt the intention, and conſtitution of this Kirk, and which from the beginning hath been one of the chief cauſes of the bygone evils therein. The Aſſembly in their anſwer Auguſt 9th 1641, to the Engliſh Miniſters, declare, they are perſuaded Preſbyterial Kirk Government to be of God, and epiſcopal government to be only of men: and they reſolve to hold the ſame conſtantly. Again, by their anſwer Auguſt 3d 1642, to the declaration of the Parliament of England, they ſay, the reformed Kirks do hold without doubting their Kirk Officers and Kirk Government by Aſſemblies higher and lower in their ſtrong and beautiful ſubordination, to be JURE DIVINO, yet Prelacy, as it differeth from the Office of a Paſtor, is almoſt univerſally acknowledged by the Prelats themſelves, to be but an human ordinance ſettled by human law for ſuppoſed conveniency: wherefore, by human authority, without wronging any man's conſcience, the ſame may be aboliſhed upon ſo great a neceſſity as is a hearty conjunction with all the reformed Kirks. Among the cauſes of that Faſt appointed by Aſſembly 1690, this is one, that the Government of the Church was altered, and the Prelacy re-introduced without the conſent of the Church, and contrary to the ſtanding Acts of our National Aſſemblies. From all which it appears, that the re-introducing of Prelacy, was always Lay, and Parliamentary only, and the Government of the Church by Preſbyters was orderly and Sy-

Prelacy declared to have been abjured, to have been the Cauſe of many evils. Prelatiſts own that it is but of men. One of the Cauſes of National Faſts; It never received the Churches conſent.

nedically eſtabliſhed by the guides and governours of the Church, i. e. her Miniſters and Ruling Elders.

Prelacy abolished by the Claim of Right; Its Toleration Treasonable.

§ 5. The Meeting of Eſtates in their Claim of Right, April 11th, 1689, declare, that Prelacy and the ſuperiority of any Office in the Church above Preſbyters, is, and hath been a great and inſupportable grievance and trouble to this Nation, and contrary to the inclinations of the generality of the people ever ſince the Reformation (they having reformed from Popery by Preſbyters) and therefore ought to be aboliſhed. In purſuance whereof, it is aboliſhed by the 3d Act of Parl. 1689, and by the 3d Act of the 1 Seſſ. of Queen Ann's Par. it is ſtatute and declared High Treaſon to Quarrel, Impugn, or endeavour by Writing, Malicious and adviſed Speaking, or other open Act or Deed, to alter or innovate the Claim of Right, or any Article thereof: Which Act is as a hedge about the Revolution Eſtabliſhment: for after the ſame was voted and enacted, never durſt any preſume to offer any Act or Overture for a Toleration to Prelacy; Whereas before that, ſome offered in Parliament Draughts of Acts, for a Toleration to Prelacy, and moved that the commiſſion of the late Aſſembly 1703, ſhould be called to the Bar for aſſerting in their addreſs, that the Parliaments granting a Toleration to Prelacy, would be to Eſtabliſh Iniquity by Law.

The Licentiouſneſs of the Preſs, how reſtrained and Cenſured.

§ 6. The Aſſembly Decem. 20th 1638, inhibiteth all Printers within this Church to Print any Act of this or preceeding Aſſemblies, any Confeſſion of Faith, any debates about preſent diviſions, or any treatiſe whatſoever, which may concern the Church of Scotland, without Warrant from the Clerk of the Aſſembly, or to re-print the ſame by any other not appointed by him: and that under pain of Eccleſiaſtical Cenſure. By the 14 Chap. Art. 19. of the French Diſcipline, all Printers and Stationers are warned, not to Print or Sell Books that ſhall concern Religion or Eccleſiaſtical Diſcipline, without the Conſiſtories allowance, and no Book is to be ſold that tends to advance Idolatry, and corrupt good manners. And by the 16 Art. of the foreſaid 14 Chapter, Miniſters nor any elſe in the Church, cannot Print Books made by themſelves or others, touching Religion, nor any way publiſh them without allowance from the Preſbytery or Synod, or from thoſe authorized by the Synod to Licenſe Books. By the 7 Act of Aſſembly 1707, Preſbyteries are appointed to take ſpecial notice, of any Book or Pamphlet which has for its Author or Publiſher any Miniſter of this Church, and examine if there be any thing therein contrary to her Doctrine, Worſhip, Diſcipline or Government, and that they cenſure ſuch as ſhall tranſgreſs herein, according to the demerit of the cauſe. The ſellers alſo and diſperſers of erroneous and popiſh Books, are to be puniſhed arbitrarily by the Rubric of the 25 Act, Par. 11. Jac. 6, but the ſtatutory words run only

againſt the home-bringers of ſuch Books; The Books alſo are to be deſtroyed, and warrandice given to Magiſtrates of Burghs, with a Miniſter to Intromet with them, without Hazard of Spuilzie: De praxi, Sheriffs & other Magiſtrates intromet with ſuch Books without a Miniſter's preſence or concurrence. Vide Machenzie on Title Hereſy.

How Overtures are turned into Acts of General Aſſemblies.

§ 7. For preventing innovations, ſudden alterations, by paſſing of Acts which may threaten the peace of the Church, it is enacted, that before any Aſſembly make Acts which are to be new ſtanding rules and conſtitutions to the Church, the ſame be firſt paſt as Overtures to be tranſmitted to the ſeveral Preſbyteries, and their conſent reported to the next Aſſembly who may paſs the ſame into Acts, if the more general opinion of the Church agree thereto, See Aſſem. 1639, Aug. 30. Aſſem. 1641, Seſſ. 14. Aſſem. 1695, Seſſ. 7. Aſſem. 1697, Seſſ. 6, and by the Act of Aſſembly 1700, Seſſ. 17, any Overtures of General Concern, propoſed to the Aſſembly, after the firſt reading, are to lie on the Table to be ſeen by all the Members till the next day of the Aſſembly's ſitting, and when tranſmitted, Preſbyteries are to conſider of them, before the Meeting of the Synod, next after the Aſſembly, and their opinion is to be ſent to the next Aſſembly in Writ. When Preſbyteries obſerve this order, then the Aſſembly gathers the opinion of the Church from the plurality of the written opinions returned; But in caſe a great number of Preſbyteries, ſhould either be ſo well ſatisfied, or ſo indifferent about the Overture tranſmitted, or give ſuch abſolute truſt and credit to their Commiſſioners that they give no opinion in the matter, in that caſe the opinion of the Commiſſioners is to be looked upon as the opinion of their conſtituents.

When Acts of Aſſembly may be Repealed.

§ 8. The ſame authority and method that was neceſſary unto the framing of an Eccleſiaſtic Conſtitution, muſt be interpoſed and uſed at its repealing, *Nam nihil eſt tam naturale, quam eo genere quidque Diſſolvi, quo colligatum eſt.* By the 8 Act of Aſſembly 1706, Commiſſion Books are only to be atteſted in a Negative Stile, even as thoſe of Synods; Yet, by the 9 Act of Aſſembly 1707, the actings and proceedings of the preceeding Commiſſion are ratified, and approven poſitively and ſolemnly, as former Commiſſions had been; becauſe of their extraordinary faithfulneſs, zeal, and diligence in addreſſing and petitioning the Parliament, againſt the dangers and evils feared from the then deſigned incorporating Union with England.

Errors and Separation, how cenſurable.

§ 9. By the 21 Act of Aſſembly 1696, and by the 12 and 18 Acts of Aſſembly 1704, all Miniſters and Members of this Church, are diſcharged to publiſh or vent either by Speaking, Writing or Printing, by teaching or preaching, any Doctrine, tenet or opinion, contrary unto any head, article, part or propoſition of the Confeſſion of Faith of this Church, and particularly, the venting any Arminian or Socinian Errors: And

Church Judicatories are ordained to advert to any who ſhall teach or vent ſuch Errors, and proceed to Cenſure them for the ſame. And alſo all Preſbyteries are injoined to Cenſure ſuch Perſons within their Bounds, who do carry on diviſive courſes, and withdraw from communion with this Church, under a pretext of zeal to her Doctrine, Worſhip, Diſcipline and Government: and that all means be uſed for reclaiming ſuch miſled people.

Miniſters are to Obſerve the public orders of this Church.

§ 10. By the 6 Act of Aſſembly 1690, it is recommended to Preſbyteries, to take notice of all Miniſters, whether the late conforming incumbents or others, who ſhall not obſerve Faſt and Thankſgiving Days, indicted by the Church, or who ſhall be found guilty of adminiſtring the Sacraments in private, or celebrating clandeſtine Marriages without proclamation of banns, and to cenſure them accordingly.

The Confeſſion of Faith to be Subſcribed with a FORMULA, & by whom.

§ 11. For retaining unity and ſoundneſs of doctrine, all Probationers licenſed to preach, all Intrants into the Miniſtry, and all other Miniſters and Elders, all School-Maſters, Chaplains, Governours and Pedagogues of Youth are appointed to Subſcribe, at the ſight of Preſbyteries, their approbation of the Confeſſion of Faith, as the Confeſſion of their Faith, Aſſembly 1690, Act 7. Aſſembly 1700, 10 and 11 Acts. And by the 11 Act of Aſſembly 1694, any of the late conform Miniſters may be received by the commiſſion of the Aſſembly into Miniſterial communion who ſhall acknowledge, engage and ſubſcribe, upon the end of the Confeſſion of Faith, the following FORMULA. And by the 16. Act of Aſſembly 1705, all Students of Theology Licenſed to Preach, and all Miniſters and Elders are in like manner to Subſcribe the ſame; The tenor whereof follows, "I * * do ſincerely owne and declare, the above Confeſſion of "Faith, approven by former General Aſſemblies, and ratified "by Law in the year 1690, to be the Confeſſion of my Faith, "and that I owne the Doctrine therein contained, to be the "true Doctrine, which I will conſtantly adhere unto: As likeways, that I owne and acknowledge the Preſbyterian Government of this Church, now ſettled by Law, by Kirk-Seſſions, Preſbyteries, Provincial Synods, and General Aſſemblies, to be the only Government of this Church, and that I "will ſubmit thereto, concurr therewith, and never endeavour "directly nor indirectly the prejudice or ſubverſion thereof, and "that I ſhall obſerve Uniformity of Worſhip, and of the adminiſtration of all public Ordinances as the ſame are at preſent performed and allowed." VID. SECT. 7. TIT. 4. LIB. I.

Synodical Aſſociations for ſecuring the Church Government.

§ 12. The Synods of this national Church in the year 1702, conſidering the great affair of the Union of the two Kingdoms, then under deliberation, did for mutual edification, and ſtrengthening one anothers hands in the Lord's Work, appoint each Miniſter and Probationer, judicially, in their reſpective Preſbyteries to profeſs and declare their reſolutions and engagments to

maintain, by God's Grace, the true Doctrine of this Church, according to our Confeſſion of Faith, and the purity of worſhip, Diſcipline and Preſbyterian Government of this Church, founded on the Word of God, and that they promiſe to diſown all principles contrary thereto.

How the 4th Article of the 23d Chapter of the Confeſſion of Faith is generally underſtood.

§ 13. The fourth Article of Cap. 23, of the Confeſſion of Faith, has theſe words, "Infidelity, or difference in Religion, doth not make void the Magiſtrates Juſt and Legal Authority, nor free the people from their due obedience to him." Which are generally underſtood thus, viz. that the principles of our holy and peaceable Religion, do not deny but Infidels and Papiſts may be lawful Magiſtrates in ſuch Countries or Kingdoms where theſe falſe religions are eſtabliſhed. And if any of our religion happen to ſojorn in theſe territories, they ought notwithſtanding to own their juſt and legal authority, and obey their lawful commands. But in other kingdoms or countries, ſuch as this of Scotland is, where profeſſing and defending of the Proteſtant religion is made a condition of government, betwixt the Magiſtrate and People, in that caſe, if he ſhall either be of, or fall away to a falſe religion, and violate the ſaid condition and agreement, then there is ground and reaſon for the peoples repreſentatives, to Claim their Right, and declare him on that account to have forefaulted his right to the crown, and declare the throne vacant, as did our Meeting of Eſtates, April 11th, 1689.

Separatiſts not to be Familiarly Converſed with.

§ 14. The Act of Aſſembly Auguſt 31ſt, 1647, conſidering how the errors of independency and ſeparation have ſpread in England ſo much, that exceeding great errors and blaſphemies have iſſued therefrom, and are ſheltered thereby: Therefore, all perſons are diſcharged from frequent and familiar converſe with perſons tainted with ſuch errors, or to import, ſell, or diſperſe ſuch erroneous books or papers, and it is recommended to the Magiſtrate, to be aſſiſting to Miniſters, in the execution of this Act. There is a former Act of Aſſembly Auguſt 9th, 1643, to the ſame purpoſe, and by the 10 Act of Aſſembly 1701, the foreſaid Act 1647, is ratified. VID. § 6. HUJ. TIT.

None are to withdraw from their own Pariſh Kirk.

§ 15. By the Act of Aſſembly Auguſt 24th, 1647, for preſerving order, peace, and unity in the Kirk, preventing of Schiſm, and for maintaining that reſpect which is due to the Miniſters of Jeſus Chriſt, every member of a congregation is ordained to keep his own Pariſh Kirk, to communicate there in word and Sacraments, and if any perſon or perſons, ſhall uſually abſent themſelves from their own congregation, except in urgent caſes, made known to, and approved by the Preſbytery, the Miniſters of thoſe congregations whereto they reſort, ſhall both in public by preaching, and in private admonition, ſhew their diſlike of their withdrawing from their own Miniſter: Likeas, the Miniſter of that congregation from which they do withdraw, ſhall labour firſt by private admonition to reeclaim them, and if that fail, they are to

be cited to the Seſſion, and cenſured as contemners of the order of the Kirk, and if the matter be not taken order with there, it is to be brought to the Preſbytery.

Diſorderly Miniſters & preachers to be particularly notic ed.

§ 16. By the 6 Act of Aſſembly 1708, all Preſbyteries and Synods are ſtrictly and peremptorily appointed to take particular notice of Miniſters, Preachers, or others, who fall into irregularities or ſchiſmatical courſes, that they duely cenſure them, according to the merit of their fault, even to depoſition of Miniſters and Elders.

Meetings meerly on pretence of religion to be ſhunned.

§ 17. The Aſſembly Auguſt 4th, 1641, doth charge all Miniſters and Members of this Kirk, to ſuppreſs all impiety and mocking of religious exerciſes, and that they eſchew all Meetings under the name and pretext of religious exerciſes, which are apt to breed Error, Scandal, Schiſm, neglect of Duties in particular callings, and ſuch other evils.

The Churches Name is not to be uſed with out her conſent.

§ 18. For preventing of abuſe to the Kirk in general, and Miniſters in particular, the Aſſembly by their Act, Auguſt 5th, 1642, doth prohibit and diſcharge all and every one, to pretend or uſe the name of Miniſters to any petition, declaration, or ſuch like, without their knowledge, conſent, and aſſiſtance; And the tranſgreſſors hereof are to be proceeded againſt, with the higheſt cenſures of the Church.

No New Oath in the cauſe of religion, to be taken without Advice of the Church.

§ 19. The General Aſſembly injoins all the Members of this Kirk to forbear the ſwearing, ſubſcribing, or preſſing of any new Oaths or Bonds, in the cauſe of Reformation without advice and concurrence of the Kirk. See Act and Declaration, July 28th, 1648.

Some cuſtoms of the church were acknowledged to be in different.

§ 20. In the General Aſſembly's anſwer, February 13th, 1645, to the Aſſembly of Divines in England, they ſeem to acknowledge, that they have ſome practices in this Church which are in themſelves indifferent: for they expreſs themſelves thus: Nevertheleſs in other particulars we are reſolved, and do agree to do as ye have deſired us in your letter, that is, not to be tenacious of old cuſtoms, though lawful in themſelves. But to lay them aſide for the nearer uniformity with the Kirk of England, that rather than it fail on our part, we do moſt willingly part with ſuch practices and cuſtoms of our own, and without the violation of any of Chriſt's ordinances.

None but Proteſtants capable of any place of Truſt.

§ 21. It is no ſmall ſecurity to the Proteſtant religion, and tends much to the preventing of innovations and errors, that none are capable of civil Truſt, but true Proteſtants; for they who profeſs not the true religion, contained in the Confeſſion of Faith, eſtabliſhed by the firſt Parliament of K. Jac. 6, may not be a Judge, Procurator, nor member of any court, Cap. 9. Par. 1. Jac. 6. And by Cap. 5. Par. 2. Jac. 6, this Act is extended to all and whatſoever offices, without any exception, or reſtriction, in all time coming. And ſuch Church-men, as will not ſubſcribe the above-mentioned Confeſſion, are deprived: And

all such as refuse to subscribe the same, are to be repute rebels and enemies to the King and his Government, Cap. 46, 47. Par. 3. Jac. 6.

TITLE IV.

Of Witches and Charmers.

§ 1. OUR General Assembly July 29th, 1640, ordains all Ministers carefully to take notice of Charmers, Witches, and all such abusers of the people, and to urge the Acts of Parliament to be execute against them. By another Act Auguſt 19th, 1643, Ministers must be careful to instruct the people, press holiness of life upon them, and use the censure of the Kirk against profane persons; Moreover, let the people seek knowledge, study to believe, walk in holiness, and be instant in prayer; all which is proposed as means to prevent the growth of Witchcraft; And further, Presbyteries are ordained, to take under consideration by what other ways or means these sins may be tried, restrained, and condignly censured and punished, ecclesiastically and civilly. In pursuance whereof, the Assembly Auguſt 6th, 1649, for advising anent the trial and punishment of Witchcraft, Charming, and consulting, there is a commission granted to twenty one Ministers, for a conference in the said matter, with nine Lawyers and three Physicians. And in the Assembly 1700, among the unprinted Acts, you will find a Committee of Ministers appointed to attend the Lords of Council and Justiciary concerning Witchcraft, when called thereto by their Lordships. By the Assembly Auguſt 5th, 1642, Presbyteries are ordained to give up to the Lords of Justiciary, the names of Witches, Sorcerers and Charmers, and because such sins proceed many times from ignorance, therefore all Ministers are ordained (especially in the North where these sins are more frequent) to be diligent in Preaching, Catechising, and Conferring, to inform their people therein. By the forecited Act Assembly 1643, they declare the occasions of Witchcraft to be these especially, viz. extremity of grief, malice passion, and desire of revenge, pinching poverty, and solicitation of other Witches. They say the reasons of Satan's prevailing, are, gross ignorance, infidelity, want of love to the truth, and profaneness of life. The means they propose, for bringing them to a just punishment, are, that a commission be granted to some Gentlemen and Magistrates, within the Bounds of such Presbyteries, as shall crave it, giving them power to cause apprehend, try, and execute justice upon persons guilty of such crimes. They declare the grounds for apprehending Witches, to be these, viz. a reigning Bruit of Witchcraft, backed with delations of confessing Witches, being confronted with them: for it is found, that the delations of two or three confessing Witches, hath ordinarily proved true: As

Acts of Assembly for preventing of Witchcraft; grounds for apprehending of, and how to deal with them.

alſo, depoſitions of honeſt perſons concerning malefices committed, or cures uſed by them, may be a ground for apprehending them. Mackenzie on this Title, ſays, that none ſhould be apprehended for Witches except it appear by the event of the inquiſition, that they lie under many and pregnant preſumptions, ſuch as, that they are defamed by other Witches, that they have been themſelves of an ill fame, that they have been found Charming, or that the ordinary Inſtruments of Charming be found in their Houſes; And it is to be remembered, that *Ad aſſumendas Informationes, ſufficiunt levia Judicia, ſed gravia requiruntur ad hoc ut citetur reus & ut Judex ſpecialiter inquirat.* By the foreſaid Act of Aſſembly, after they are apprehended, honeſt and diſcreet perſons ſhould be appointed to watch them, to prevent their being ſuborned, and hardened by others, or deſtroying themſelves, and Miniſters would be careful at all times, eſpecially Morning and Evening, to deal with them by Prayer and Conference, while they are in priſon or reſtraint.

Who are judges competent thereto.

§ 3. Witchcraft was CRIMEN UTRIUSQUE FORI, by the Canon Law, and with us, the Kirk Seſſion did uſe to enquire into it in order to the ſcandal, and take the Confeſſion of Parties, or receive witneſſes againſt them: But ſince ſo much weight is laid upon the depoſitions there emitted, they ſhould be very cautious in their procedure. By the 73, Act Par. 9. Queen Mary, although inferior judges may concur to the puniſhment of this crime, by apprehending and impriſoning the Parties ſuſpect; yet ſeeing the relevancy is oftentimes ſo intricate, & the procedure requires neceſſarily ſo much arbitrarineſs, and the puniſhment is ſo ſevere, upon theſe conſiderations, the cognition of that crime ſhould be ſolely appropriate to the Juſtice Court.

What is relevant to infer the Crime of Witchcraft.

§ 3. Paction to ſerve the Devil is certainly PER SE relevant, without any addition, providing they acknowledge they knew him to be the Devil. This paction is either expreſs, performed by a formal promiſe given to him, then preſent, to ſerve him; Or by preſenting a ſupplication to him, or by giving the promiſe, to a proxy, impowered by the Devil for that effect, which he indulgeth to ſome who dare not ſee himſelf. There is likewiſe a TACITE paction with the Devil, when a perſon uſeth the words or ſigns which Sorcerers uſe, knowing them to be ſuch, and this is condemned as Sorcery, and is relevant to infer the crime of Witchcraft. But to uſe theſe words and ſigns, when the uſer knows them not to be ſuch, if the ignorance be probable, and the uſer be content to abſtain, it is no ſuch crime. Renouncing of Baptiſm is moſt relevant PER SE to infer the crime of Witchcraft. Witches uſe to confeſs, that in ſo doing they uſe this ſolemnity, by putting one of their hands on the crown of their head, and the other beneath the Sole of their Foot, at which time he gives them new Names.

§ 4. To libel the Devil's mark is not PER SE relevant, unleſs

it be confeſſed by them, that they got that mark by their own conſent, QUO CASU, it is equivalent to a paction. The Prickers ſay, if the place bleed not, or if the perſon be not ſenſible, then He or She hath the mark; which is given by a nip in any part of the body, and is blue, as is alleged: But it is hard to diſtinguiſh any ſuch marks, A NÆVO, CLAVO, VEL IMPERTIGINE NATURALI. Where threatning are ſpecific, bearing a promiſe to do a particular ill, and when charms are uſed to obtain its execution, and when it is known that the threatner had a preceeding enmity againſt the perſon threatned; under theſe circumſtances, MALUM MINATUM & DAMNUM SECUTUM libelled, would ſeem to be relevant: Yet it is ſafer to puniſh theſe threatnings with ſome milder puniſhment than death, as CRIMEN IN SUO GENERE, and not as Witchcraft. Indeed if the perſon who uſeed the Charms, knew them to be ſuch, as Witches and Sorcerers do make uſe of, for procuring ſuch miſchief, it is relevant to infer Witchcraft, as hath been ſaid. The uſing of Magic Arts or Charms, though for good ends, as for the curing of diſeaſes in men or cattle, has no place to make a relevant defence. Since the Law cannot know exactly, what efficacy there is in natural cauſes, it may very well diſcharge all ſuch Acts wherein there is no neceſſary connection, INTER CAUSAM & EFFECTUM, as it pleaſes under the pain of Witchcraft: Nor can theſe who are accuſed, complain of ſeverity, ſince SIBI IMPUTENT, that uſe theſe forbidden things: And therefore, ſince the Law and practique hath forbidden all Charms, it is moſt juſt, that theſe who uſe the ſame, ſhould be ſeverely puniſhed, whatever the pretext be upon which they are uſed, or after whatever way and manner, or to whatever end, whether good or bad. Conſulting with Witches, when done knowingly, intentionally and in earneſt, or a profeſſing of Necromancy, which was a propheſing by departed Spirits, as alſo predictions and reſponſes by the ſieve, and the ſhare, and by the book, and all ſuch cheats, and ſpecies of ſorcery. See the 73. Act Par. 9. of Queen Mary, when perſons, are delated by other Witches, or PER DEFAMATIONEM, which we call Common Bruit, and open Fame, and thereupon libelled, that article is never ſuſtained as relevant PER SE to infer Witchcraft: Yet ſometimes articles that are of themſelves irrelevant, are ſuſtained relevant, being joined with that of Fame and Delation: But it is hard, and ſeems unjuſt to compoſe a relevant libel, out of articles that are PER SE irrelevant.

The devils mark not PER SE relevant.

Threatnings to do Miſchief how relevant.

Uſing of Charms tho' for good Ends puniſhable.

Conſulting with Witches puniſhable.

What defamation by witches imports.

§ 5. The relevancy of this crime being diſcuſſed, the ordinary probation of it is, by confeſſion of witneſſes: It ſhould be evident, that the perſon confeſſing is not weary of life, or oppreſſed with melancholy. Albeit HIC NON SEMPER REQUIRITUR UT CONSTET DE CORPORE DELICTI, this being a crime which conſiſts IN ANIMO, yet the confeſſion ought to be ſuch, as contains no-

When puniſhment follows on Witches Confeſſion, or by probation of witneſſes.

thing in it that is impoſſible: It is condeſcended by Lawyers, that SUCCUBI & INCUBI SUNT POSSIBILES; That the Devil may lie in the ſhape of a man with a woman, or in the ſhape of a woman with a man, having firſt formed to himſelf a body of condenſed air; Or that he may tranſport Witches to their public conventions, and upon ſuch confeſſions ſome have been puniſhed as Witches. The probation of this crime by witneſſes is very difficult, and therefore SOCII CRIMINIS, or other confeſſing Witches are adduced: But yet, theſe do no prove Witchcraft ſolely, though dying and penitent: Whereas it may be doubted if the conſulting of Witches may not be proved by two of them who were conſulted: For if this be not a ſufficient probation, it may ſometimes be impoſſible to prove conſulting any other way; But if ſuch be ſuſtained, why may not SOCII CRIMINIS be allowed as HABILE witneſſes. The perſons injured by Witches, are admitted witneſſes againſt them, but CUM NOTA, women are received witneſſes in this crime: Witches do rarely weep, becauſe they are ordinarily hardned.

If Witches may be deſired to take off diſeaſes.

§ 6. It is thought lawful, by ſome, for all who are bewitched, to deſire the bewitchers to take off the diſeaſe, providing the ſame can be removed by taking away the old Charm, without any new application to the Devil; which practice ſeems yet to be forbidden, Iſai. viii. 19, "and when they ſhall ſay unto you, ſeek unto them that have familiar Spirits, and unto Wizards that peep and mutter; ſhould not a people ſeek unto their God? for the living to the dead." Yet it is not unlawful for any to remove the Charm, or ſign of it, if it be in their power to do it, without any application to the Devil or his inſtruments.

How they torment by Images, and of the puniſhment of Witches.

§ 7. Witches do likewiſe torment mankind, by making Images of Clay or Wax, and when they prick them, the perſons do find extreme torment, which doth not proceed from any influence theſe Images have upon the Body tormented, but the Devil doth by natural means raiſe theſe torments in the perſon, at the very ſame time that the Witches do prick, or pounce, or hold to the fire theſe Images: Witches confeſſing this manner of torment, may very judicially be found guilty, ſince *conſtat de Corpore delicti, de modo delinquendi, & inimicitiis præviis.* The puniſhment of this crime is with us Death, and the doom ordinarily bears, to be worried at the Stake and Burnt.

Fortune Tellers, who and how puniſhed.

§ 8. Fortune-Tellers are thoſe who do profeſs to reveal and diſcover ſecrets, by means altogether inept or unlawful, and they are puniſhed with us arbitrarily, not capitally, and by the Law of England, cited by Mackenzie on this Title, ſuch perſons are to be impriſoned for the ſpace of a whole year, during which time they are to be pillorized quarterly.

TITLE V.

Of Blaſphemy, Curſing, profane Swearing, and Lottery.

§ 1. BLASPHEMY is a divine Leſe-majeſty or Treaſon, and is committed either by denying that of God which belongs to Him, or by attributing to him that which is abſurd. Theſe who ſwear by the head or feet of God, are guilty of this crime by the Canon Law, VIDENTUR ENIM AMPLECTI Anthromorphitarum HÆRESIN, QUÆ MEMBRA DEO TRIBUEBAT. They are alſo, according to them, puniſhable, who delate not Blaſphemers. Blaſphemy what.

§ 2. By the 21. Cap. Par. 1. Car. 2, it is appointed, that whoever, not being diſtracted in his wits, ſhall rail upon or curſe God, or any of the Perſons of the bleſſed Trinity, be proceſſed before the Chief Juſtice, and being found guilty, puniſhed with death. From which Act it is clear, that this crime can only be tried before the Juſtices, and that diſtraction is only a relevant defence againſt the puniſhment. So that paſſion, ruſticity, or raillery excuſe not. Yet if the denying of God's Attributes, or any of the Perſons of the Holy Trinity, proceed from ignorance and the denial be not obſtinately perſiſted in, they ſhould be pitied, rather than puniſhed. It ſeems to me a good defence againſt the puniſhment of Blaſphemy, when one is compelled to Blaſpheme through torture, as the Saints did through the torments and madneſs of Saul's perſecution, Acts xxvi. 11, and Solomon, Eccl. vii. 7. ſays, "Surely oppreſſion maketh a wiſe man mad," That is, it maketh him ſpeak, or Act, like a mad man. Its puniſhment, and defences againſt it.

§ 3. By the 103. Cap. Jac. 6. Par. 7, Magiſtrates to Burgh and Landward, are ordained to appoint Cenſors in public Markets and Fairs, with power to exact the pains of Swearing, and that the Houſholders delate offenders within their houſes, under the pain of being eſteemed as offenders themſelves. By Cap. 16. Par. 5. Queen Mary, particular pains are ordained againſt profane Swearers, with gradual augmentations, and ending in Baniſhment: Which Acts are ratified by Charles II. Parl. 1. Seſſ. 1. Cap. 19, and farther it is Enacted, That who ſhall Swear or Curſe, ſhall pay, the Noblemen 20 Pounds, the Baron 20 Merks, the Gentlemen, Heretor, or Burgeſs 10 Merks, the Yeoman 40 Shilling, the Servant 20 Shilling, TOTIES QUOTIES; and the Miniſter the fifth part of his Stipend to be applied to pious uſes, the one half in the Pariſh where the offence was committed, and the other half to be betwixt the Informer and Proſecuter, and other uſes, at the ſight of the Judges, as in the Act about Juſtices of the Peace, and the inſolvent to be puniſhed in their perſons. By the French Church Diſcipline, Cap. 14. Arc. 24, profane Swearers, who through cuſtom or anger, take the How Curſing and profane Swearing is puniſhed and cenſured, & the defences againſt its puniſhment

name of God in vain, after one or two admonitions, if they desist not, shall be suspended the Lord's Table; So that custom and passion do not defend against punishment. But whether passion will excuse, at least in part, from being punished as a Swearer and Curser, when provoked thereto while employed about lawful honest business, I think needs be no difficult question; Yet no Lawyer will say, that anger doth lessen this vice, committed by him who is unlawfully employed, as in playing at Cards, or in excessive and unseasonable drinking: See Mackenzie Crim. page 26.

Lottery sometimes Lawful, and sometimes not.

§ 4. There is a Lottery which is necessary, and useful in some cases, for ending of debates and controversies among men; As for example, where there is one adjudication in favours of divers Creditors, they must have their preference by Lot, in choice of the rooms of lands adjudged, VIDE Stairs INSTIT. page 75, 626. and 648, so the land of Cannan was divided among the Israelites by Lot. But there is a Lusory Lottery, such as playing at Cards, &c. which is condemned by the practice of most who have the commendation of good Christians in this Church, by the Assembly 1638. Sess. 23, 24. Art. 9, Carding and Dicing are noted as unlawful Games; And by the 50 Canon, *Concil. sexti in* Trullo, *Nullum omnium, sive Clericum sive Laicum ab hoc deinceps tempore alea ludere permittimus, si quis autem hoc deinceps facere ab hoc tempore aggressus fuerit, si sit quidem Clericus deponatur, si Laicus, segregetur.* To discourage this kind of Lottery, it is Enacted by James VI. Par. 23. Cap. 14, that none play at Cards or Dice in any common house, town, hostelry, or cooks house, under the pain of forty pounds, the Keeper of the said House for the first, and loss of liberty for the second fault; And that there be no playing in any private house, except where the Master playes, and if more be won in twenty four hours than one hundred Merks, it shall be consigned in the Kirk Treasurers Hands in Edinburgh, or in the Hands of the Collector for the Poor in the Country. And Magistrates of Burghs and Sheriffs and Justices of Peace in the Country, are impowered to pursue for the superplus winning, or otherways are declared liable to the Informers for the double, whereof the half to himself, the other to the poor.

TITLE VI.

Of the Profanation of the Sabbath; Of not observing Fast and Thanksgiving Days; Of Withdrawers from, and Disturbers of the Public Worship, and observers of Superstitious Days.

How profanation of the Sabbath

§ THE Assembly discharged the breach of the Sabbath by labouring either in seed-time or harvest, or by go-

ing of mills, ſalt-pans, fiſhing Salmon, or white fiſh, under pain of incurring the Cenſures of the Kirk: and for preventing its profanation, they appoint both diets, fore and afternoon, to be kept even in landward for public divine ſervice, December 17th, 1638, and Seſſ. 21ſt, 1639. The Aſſembly likeways declares, that theſe Acts made againſt breach of the Sabbath, ſhall not only reach the Servants, who actually work, but alſo the ſame ſhall be extended againſt their Maſters and Hirers, Aug. 14th, 1643. By Act of Aſſembly, June 18th, 1646, all ſuch Skippers and Sailors, who begin any voyage, or looſe any ſhips, barks or boat, out of road or harbour on the Lord's Day, are to be Cenſured. By Seſſ. 38. 1648, Elders are to take notice, how ſuch as are within their bounds keep the Kirk, and how the time is ſpent before and after public worſhip. By the 25th Act of Aſſembly, 1690, all unneceſſary ſailing and travelling is prohibited on the Lord's Day. ITEM, By Act of Aſſembly, 1705, Seſſ. 12, Miniſters are to contribute their endeavours for ſupreſſing groſs profaning of the Lord's Day, eſpecially idle Vaguing on the Streets of Edinburgh, Peer and Shoar of Leith, Queen's Park, &c. and that by an impartial and prudent exerciſe of diſcipline. By the 12th Act of Aſſembly, 1708, for the better obſervation of the Lord's Day, they appoint ſome to be ſent from each Preſbytery within this Church to attend the Lords of Juſticiary at their Circuit within their bounds, and then to repreſent the profanation of the Lord's Day by travelling thereupon, carrying goods, driving of cattle, and other abuſes: and they ſeriouſly recommend it to the ſaid Lords, to reſtrain and puniſh the aforeſaid abuſes, which the Aſſembly will acknowlege as a ſingular ſervice done to God and this Church. And all Miniſters are injoined, to advertiſe their people, among whom ſuch practices are, of the great hazard their immortal ſouls are thereby in; and that if they continue therein, there will be a neceſſity to repreſent them as ſuch tranſgreſſors to the foreſaid Lords. So much reſpect doth our law pay to the Sabbath or Lord's Day, that it cannot be taken for redemption of lands, and a wood-ſetter cannot be obliged to attend and perform the requiſites of conſignation, by numeration of money, peruſal of writes, and ſubſcribing a renunciation on the Sabbath Day. It is relevant to allege, that an arreſtment or horning is null, as being execute upon a Sabbath Day: and poinding on the Lord's Day, or on ſolemn days appointed by Church or State for humiliation or thanksgiving, are void and puniſhable, VIDE Stair's Inſtit. p. 336. 375. 411. and 728. And if the law did not thus order it, the conſcious obſervers of the Lord's Day would certainly be moleſted, and advantage taken of them by worldly wretches and contemners of holy things. By Chap. 70. Par. 6. Jac. 6, gaming, playing, paſſing to taverns, or ale-houſes, ſelling of meat and drink, and

is cenſured and puniſhed.

wilful remaining from Kirk in time of Sermon or Prayers, is diſcharged under the pain of twenty ſhillings, and if the Offenders be unable to pay, they are to be put in the Stocks or Joggs. ITEM, By Cap. 18. Seſſ. 1. Par. 1. Car. 2, all Salmon fiſhing, going of Salt-pans, Mills or Kilns, hiring of Shearers, carrying of Loads, keeping of Markets, and uſing of Merchandiſe on that day, and all other profanations thereof are diſcharged, under the pain of twenty pounds for Salt-pan, Mill or Kiln, and ten pounds for each other profanation, to be applied as in § 3. TIT. PRÆC. and that the Inſolvents be puniſhed in their perſons. By the 14th Act of Par. 1695, it is declared lawful to all Burghs, not only of Koyalty, but of Regality, Barony and Villages, and Kirk-towns, whoſe weekly Markets are kept on Mondays and Saturdays, to change and alter the ſame. And the ſaid Burghs and Villages are to make timeous intimation of the change to the next adjacant Burghs, and providing they pitch not upon the Market Days of any Burgh Royal, or of any other Market Town within four miles.

How ſome Proclamations allowing the profaning of the Lord's day, agree with the Civil Law.

§ 2. King Charles the I. was prevailed on by Laud and his Faction (little to his credit) to publiſh his Declaration concerning recreations on the Lord's Day after Evening Prayer, dated October 18th, in the 9th Year of his Reign, which he founds upon another of his Father's to the ſame purpoſe, in the year 1618, he declares his pleaſure was, that his good people ſhould not be hindred after the end of Divine Service on Sundays from their lawful recreations, ſuch as dancing, either men or women, archery, leaping, vaulting, nor from having of may-games, whitſon-ales, morice-dances, and ſetting up of may-poles, or other ſports therewith uſed, but he debars from the privilege of theſe ſports all recuſants that abſtain from coming to Church and Divine Service. How this agrees with the Civil Law, you may ſee in the end of the Title DE FERIIS, in Juſtinian's Codex. *Dominicum Diem ita ſemper honorabilem decernimus & venerandum, ut a cunctis Executionibus excuſetur, nulla quenquam urgeat Admonitio, nulla Fidejuſſionis flagitetur exactio, taceat Apparitio, Advocatio deliteſcat. Sit ille dies a Cognitionibus alienus, præconis horrida vox ſileſcat, reſpirent a Controverſiis Litigantes.* Et poſtea, *nec hujus tamen religioſi diei otia Relaxantes, obſcænis quenquam patimur Voluptatibus detineri, nihil eodem die ſibi vendicet ſcæna Theatralis, aut Circenſe certamen, aut Ferarum lacrymoſa ſpectacula; Et ſi in noſtrum Natalem celebranda ſolemnitas inciderit differatur.*

Non-obſervers of Faſt & Thankſgiving Days puniſhable.

§ 3. The Non-obſervers of Faſt and Thanſgiving Days, may be puniſhed as profaners of the Sabbath, I mean, at leaſt, with the like puniſhment; For by the Acts of Parliament 1693, and 1695, appointing Faſts, the Non-obſervers are puniſhed more ſe-

verely; And I know nothing to hinder the Church from cenſuring ſuch, as they do Profaners of the Sabbath.

Diſturbers of Public Worſhip; how puniſhed.

§ 4. By Cap. 27. Par. 11. Jac. 6, it is Enacted, that Troublers of the Kirk, or who raiſe any Fray therein, or in the Kirk-yard, in time of Divine Service, be puniſhed in Tinſel of all their Moveables. If the Magiſtrate be preſent, no doubt, he may ordain the Diſturbers to be removed, and ſecured, till they find Bail to anſwer therefore.

Obſervers of Superſtitious Days cenſurable.

§ 5. By the Act of Aſſembly the 13th of February, 1645, it is unanimouſly ordained, that the Obſerver of Yule-day, or other Superſtitious Days, ſhall be proceeded againſt by Kirk Cenſures, and ſhall make their public repentance therefore in the face of the offended Congregation. And if Maſters of Schools or Colleges grant vacancy on that Day, they are to be cited to anſwer to the next Aſſembly by the Miniſters of the Place; And no vacancy is to be granted at that or any time thereafter in compenſation thereof. And Scholars guilty herein, are to be corrected by their Maſters; But if they refuſe to ſubject themſelves to correction, or be Fugitives from Diſcipline, they are not to be received into any other School or College within the Kingdom. By the 22d Cap. Seſſ. 2d, Par. King William and Queen Mary, The keeping of Yule Vacancy, and all obſervation thereof, is diſcharged.

The church of Scotland hath no Anniverſary Faſt or Feaſt Days.

§ 6. This Church hath no Anniverſary Feaſt or Feſtival Days, but doth only ſet apart a day or days for Thankſgiving or Humiliation, as emergent Providences do call for. By the 1ſt Act Par. 15th, Jac. 6th, the 5th day of Auguſt is appointed to be a Day of Thankſgiving to God, for King Jams's Preſervation from the Treaſonable attempt of the Earl of Gowrie and his Brother: But the truth of this matter being much queſtioned by many, it never received univerſal obedience, and at length turned wholly into deſuetude. By Par. 1. Seſſ. 1. Cap 17. and Par. 2. Seſſ. 3. Cap. 12. of Car. 2, the 29th day of May is appointed for the ſolemn Commemoration of his Birth and Reſtoration: And for that end, that it be ſet apart as a holy day unto the Lord. But one of the reaſons why the Preſbyterians did not keep this day is, becauſe in the Act of Parliament appointing it, there is a long preface full of black Aſperſions upon the whole Church and Nation, and ſuch reflections upon Religion and the Work of God, as cannot be read without horror. And they were followed with Acts that deſtroyed the Church Government, contrary to National ſolemn Engagements, and gave a deep wound to true Religion: So that however the King's Reſtoration might otherways have been matter of joy, yet in this reſpect it could not be ſo to any in this land, that had a true regard for the Intereſt of Religion. Our Prelatiſts did uſe to obſerve the 30th day of January, as an Humiliation Day, becauſe upon it King Charles I. was Beheaded in England,

by the authority and power of the Uſurpers and Sectaries there; but though that horrid fact was ſtill deteſted and abhorred both by this Church and Kingdom, yet we never would obſerve it, becauſe of our notour innocence in that matter. It is true, it is our duty to mourn for the Sins of others, but not as our own Sins, except we have had ſome ſinful active acceſſion thereto.

What is not a ſuperſtitious obſerving of days.

§ 7. It is not to be reputed an obſerving of Superſtitious Days, when people in obedience to civil Authority, do refrain from work thereupon, according to the 21ſt Act, Chap. 14. of the French Church Diſcipline.

TITLE VII.

Of Slandering and Aſſaulting of Miniſters,—Beating and Curſing of Parents, and Injuries Perſonal and Real.

Slandering of Miniſters to be Cenſured.

§ 1. RAISING of Scandals and Prejudices againſt Miniſters, ſo obſtructive to the ſucceſs of the Goſpel, the Aſſembly by their Act, 6th Aug. 1642, doth ordain Preſbyteries and Synods to proceed diligently againſt all Perſons that ſhall Reproach Miniſters, with the Cenſure of the Kirk, even to the higheſt, according to the degrees and quality of the Scandal.

Violence offered to Miniſters; how puniſhed.

§ 2. By the 27 Act Parl. 11. Jac. 6. and Act 7. Parl. 1. Car. 1. and Act 5. Seſſ. 1. Parl. 2. Car. 2. it is appointed, that who invades or puts violent hands, or offers violence to Miniſters, by themſelves, their men, tenants, or ſervants, or any others of their hounding out or allowance, for whatſoever cauſe, ſhall be puniſhed by Tinſel of Moveables, the one half to the King, the other half to the Party offended for the Violence allennerly: but prejudice of greater puniſhment, if any higher crime concur, ſuch as Mutilation or Slaughter: and that Landlords, Heretors, and Chiefs of Clans, where the Invaders dwell or haunt, be holden upon complaint of the Party, to exhibit them: and if after legal intimation, made to the Landlords, &c. The ſaid Delinquents be found within the bounds haunting openly for Ten Days; that they be holden as Connivers, and be obliged to exhibit them under the like puniſhment. But by the 37 Act of Parl. 1685, it is ordained, That whoſoever ſhall be found guilty of Aſſaulting the Lives of Miniſters, or of Invading or Robbing their Houſes, or actually attempting the ſame, ſhall be puniſhed with Death.

Beating and Curſing of Parents; how puniſhable.

§ 3. By the 20. Act Seſſ. 1. Par. 1. Car. 2. Beating or Curſing of Parents, is declared to be puniſhable by the Law of God with Death, and therefore Ordains, That whoſoever Son or Daughter, above the Age of Sixteen Years, and not Diſtracted, ſhall Beat or Curſe his Father or Mother, he ſhall Die without Mercy: but if they be within the Age of Sixteen, and paſt Pupillarity, they are to be puniſhed Arbitarily.

§ 4. Verbal Injuries are committed by unwarrantable expreſſions, as to call a Man a Cheat, Calvin in his LEXICON JURIDICUM, ſays, That *Diffamare eſt per diverſas partes famam divulgare, facta vitiorum commemoratione.* In libelling of ſuch injuries, there is requiſite, 1ſt, that the particular expreſſions be diſtinctly condeſcended on, that the injury may be accordingly eſtimate. Next, that the *Calumniandi*, or *Injuriandi animus*, the deſign of injuring, as well as the injuring words, muſt be libelled and proven, except the words infer ſo clearly the injury, that there is no neceſſity to libel the deſign. In the laſt place, that the Purſuer did preſently reſent the injury, and thereupon did ſignify, either expreſsly, or by ſome other Acts, his diſſatisfaction therewith: For, if he was of ſuch a temper as not to ſignify any reſentment thereof at firſt, the law will not allow him to repent of that good humour: Bockelman, in his Compend of the Inſtitutions of the Civil Law, ſays, that *Injuria eſt delictum, quo quid ad contumeliam vel dolorem alterius admittitur.* And by the Canon Law, it is, *Dictum vel factum alterius famam vel dignitatem minuens.* Sometimes injuries are inferred, not only from expreſs words, but even from the preſumptive meaning of the ſpeakers, as to look in a man's face and ſay, I am not ſuch a Lyer as others are; Or, to ſay flantingly to a Clergy-man, You are a fine Church-man indeed. Verbal injuries; What.

§ 5. Since injuries are eſtimate, according to the deſign of the Offender, it follows that men who are fools, idiots, very young, or very drunk, are not puniſhable for verbal injuries, except the Offender did become drunk upon deſign to Offend: And great paſſion, which breaks off all deſigning, JUSTA & NON AFFECTATA IRA, excuſeth alſo in this caſe. The relating alſo what we have heard from good Authors, who deſign no prejudice, is ſufficient alſo to defend againſt the puniſhment due to injurers. What defends? againſt the puniſhment due to injurers.

§ 6. Real injuries, according to that forcited civilian, are, *Cum quis pugno pulſatur, fuſtibus cæditur, verberatur, cumque bona ejus qui nihil debet ut debitoris poſſidentur, cum quis vexandi cauſa, in jus vocatur, aliudve quid ad invidiam alterius fit vel geritur*, M'kenzie on this Title tells us, real injuries are committed by hindering a man to uſe what is his own, by removing his Seat out of its place in the Church, by giving a man Medicaments which may affront him, by arreſting his Goods unjuſtly, by wearing, in contempt, what belongs to another man as a Mark of Honour, by Razing ſhamefully a man's Hair, or Beard, or by offering to ſtrike him in Public. Real injuries; What.

§ 7. LIBELLI FAMOSI, that is, infamous libels are the moſt permanent of all injuries: For the Offender in them ſhews more Infamous libels called

by civilians LIBELLI FAMOSI, how punished, and its defences. design, and therefore are more severely punished, which with us is arbitrary, except where the Prince is maliciously and designedly abused. He who Writes, Dictates, or affixes Infamous Libels, or causes Write, Dictate, or affix them is punishable. If the Offender was a Minor, or was provoked; or if he did tear it before it was fully Written, or after it was affixed, confessed his fault, and said he only did it out of passion; Or, if what was said was true, these things will lessen the punishment.

Who are judges competent. § 8. According to our Law, Verbal Injuries are punished by the Commissars, except they were committed against a Magistrate: In which case, the Council or Criminal Court uses to americate them, especially when he is spoken against in the exercise of his office. But real Injuries may be pursued before the Council or Criminal Court. By the Civil Law verbal Injuries are extinguished, if they be not purfued within a year, or by posteriour express friendship.

How church judicatories are to behave in processes for Calumny. § 9. When the Complaint consists of some injury done to the Complainer, it is fit that the Church should endeavour to compose and remove such differences privately; but if the bringing of it before them cannot be got avoided, let it rather be tabled by order of the Eldership, than pursued at the instance of the Complainer, because thus the thing as Scandalous may be more abstractly considered, the person more easily convinced, and the Heat of Parties prevented. But if Parties will enter their own complaint, let them be acquainted, that they are not to expect that the Church can civilly punish the injury, but they are to be exhorted to pardon it as to any vindictive humour, and told, that it is only their business to remove the scandal, and gain and please Parties, to their edification. And I suppose the Calumnitor complained of should prove what he alleged against the Pursuer, yet even that cannot vindicate him altogether, except the end of his divulging it appeareth really to be for his Brother's edification: See Durh. on Scandal, part Cap. Upon the whole, where there is no probable ground to expect edification in giving way to such Processes, according to that Author, it were expedient for the Church altogether to wave them.

TITLE VIII.

Of Bribery,—Partiality, and Negligence of Judges.

Bribing what. § 1. IT is to no purpose to make good Canons and Constitutions, if the execution of them be not committed to just and diligent persons; As it is to no purpose to have an exact ballance, if that ballance be not put in a good hand. Bribing is the taking of money or other good deeds, either for doing of justice, or committing of injustice. And if they be taken upon that account, whether by the Judges, their Wives, Children, or Servants; The Judge is thereby guilty as if done

by himſelf: Providing the ſame be done by his command or ratihabition.

§ 2. Judges are partial, when they are moved to Act, or forbear, either from fear of angring and diſobliging Parties; Or from a deſign and love to gain their favour. By Act of Aſſembly 10th Auguſt, 1648, impartial Church Procedure is propoſed as a general remedy againſt the growing of ſins in the Land. And the Aſſembly 11th June, 1697, appoints Miniſters and Members of Kirk-Seſſions impartially to exerciſe Church Diſcipline; And excites them thereunto, by putting them in mind, that in theſe matters, they have to do with the Great and Terrible God, whoſe honour and favour is to be preferred, and whoſe wrath and anger is to be feared before all other conſiderations whatſoever. By the 104 Act, 7 Par. Ja. 5, conſulting, or giving partial Judgment, or taking of Bribes, is declared infamous, in any Judge. By the 93. Act 6 Par. Ja. 6, the taking of bribes is diſcharged to the Lords of Seſſion, their Wives and Servants under the pain of infamy and deprivation. Partial Judges, who

§ 3. By the Laws of this and other well governed Nations, Judges negligent in putting Laws to execution, are puniſhable for their remiſſneſs and negligence. And by Act of Aſſembly January 30th, 1699, it is Enacted, that whatever Miniſter or Member of Seſſion, be found faulty in neglecting to purſue the Scandals therein mentioned, in their ſtations, the ſaid Miniſter or Member of Seſſion be complained of, and cenſured by the Preſbytery for the firſt fault, and that the cenſure be recorded, and that the ſecond negligence be delated to, and cenſured by the Synod; And for the third neglect, they be cenſured by the Synod with ſuſpenſion from their Office, which is to be recorded in the Synod Regiſter, VIDE Tit. 5. Lib. 4. Negligence of eccleſiaſtical Judges, cenſurable.

TITLE IX.

Of Deforcement of officers.

§ 1. HOW Citations are ſometimes appointed to be execute, for preventing of Deforcement, VIDE Lib. 1. Tit. 2. § 6. Deforcement is that force or violence which oppoſeth Church Officers while they are in the execution of the orders and appointments of Church Judicatories. But if any Officer want his orders in writ along with him, the violence offered to him in that caſe cannot be eſpouſed by Church-courts, as an indignity offered to them, otherways ſtangers might be emboldened to affront others by aſſuming and pretending their authority. Therefore, when any injury is offered or committed againſt ſo unexact and negligent Church Officer, it is only to be reſented as if it had been done him when going about his own affairs. Deforcement, what.

Who are habile Witnesses of deforcement.

§ 2. Whoever may be admitted witnesses for proving of other offences may be sustained as witnesses to prove the deforcement, other ways it may never be proven; But the Witnesses must not be Pursuers or Complainers, even though they were abused; And if they do depone of any wrong done to themselves, they may be rejected as prejudicate Witnesses.

TITLE X.

Of Murder,—Parricide,—Duels, and Self-Murder.

That these crimes come under Church Cognizance.

§ 1. AMONG the Ecclesiastical Remedies enacted against profaneness, August 10th, 1648, Art. 5. it is proposed to the consideration of Presbyteries how Murder should be censured, in case the Magistrate do not his duty in punishing it capitally. And in that Form of Process, enacted by Assembly 1707, Cap. 6. Art. 1. Murder, among divers horrible crimes, is there enumerated as the object of the Churches Cognizance; It is not improper that Church-men understand somewhat of the Laws and customs relating to criminal matters, the relevancy and punishment of many crimes being either founded upon or expressed in the Word of God, whereof they are the authorized Ministerial Interpreters. It is true, it may be feared, that Church Discipline shall have but small success upon obdured or monstruous criminals; Yet, it being a mean appointed by Jesus Christ for reclaiming of sinners, it should on that account be tried, and no more neglected than his Word and Sacraments, which very often have no better effects. This Church hath very clearly expressed her opinion about the extent of the object of Church Discipline, Assembly 1638, Sess. 23, 24. Art. 13. Where they ordain, that Discipline in Kirk-Sessions (for there all Processes against Church-Members do first begin) strike, not only upon gross sins, as blood-shed, &c. but against all sins repugnant to the Word of God.

Murder what, and of Casual Homicide.

§ 2. Civilians define Murder to be the killing man by man, unlawfully; And they divide it into that which is committed casually, in defence, culpably, or wilfully: Casual Homicide is, when a man is killed without either the fault or design of the Killer, as if an ax-head should fall off and kill a by-stander, or, a Rider should kill with his Horses hinder feet. Casual Slaughter or Homicide then, is that, which is occasioned by mistake and just ignorance: for if it proceed from affected ignorance, as for instance, if a man will not know what he may know, his ignorance in that case will not make the Murder following upon it to be constructed Casual Homicide; But if it proceed from gross and SUPINA IGNORANTIA, it may be punished by an extraordinary or arbitrary punishment, but not by Death. It is then necessary, that the Committer used all exact diligence to evite the crime, else, he is not in the case of casual Homicide.

Further inſtances whereof are, if a Maſon before he throw down Stones, advertiſe all below, though in the throwing he kill, he is not to be cleared from Murder. Or if a Hunter ſhoot at a Beaſt, but a man come in the way and be killed: and yet if either the Maſon cry not, or if the Hunter did ſhoot in a place where people uſe to be, he is judged by ſome Lawyers to be guilty of Faulty Murder. If the Committer do what is againſt the Law of Nature, or what is criminal: Or if what he doth may produce ill conſequences and Murder, though he deſigned not the ſame: In all which caſes, he ought to be liable. And it ſeems reaſonable, that he who killed, when he was doing what was unlawful, may be arbitrarily puniſhed, though he did exact diligence to ſhun killing.

Homicide committed in ſelf-defence, how lawful bounds are exceeded.

§ 3. HOMICIDIUM NECESSARIUM, or Homicide committed in ſelf-defence, is, when a man being purſued, or reduced to inevitable neceſſity, has no way left him to evite his own death, but by killing the Aggreſſor: This is in Law called, INCULPATA TUTELA, or, MODERAMEN INCULPATÆ TUTELÆ; within which moderation, if the defender contain himſelf, he is noway puniſhable; And ſo favourable is ſelf-defence, that the exceeder is not liable to the ordinary puniſhment, but is puniſhable according to the exceſs, at the diſcretion of the Judge. This moderation is ſaid to be exceeded in theſe three, 1ſt, in Arms, as if the Aggreſſor have only a Staff, and the Defender wound him with a Sword or Piſtol, the Defender is in that caſe puniſhable. And yet this concluſion is not infallible, for if the Defender was much weaker than the Aggreſſor, he might be excuſed to uſe ſuch unequal weapons, according to Mackenzie on this Title. 2dly, The defender is ſaid to exceed in Time, if he ſtrike the Aggreſſor, *antequam ſit in actu proximo occidendi*, for elſe it ſhould be lawful to every man, upon the firſt apprehenſion of fear to kill the Aggreſſor. If he threaten to kill, and be one who is known to have any deſign to Murder, or be a perſon who uſeth to execute what he threatens, and if he have a Sword, though not drawn, or a Piſtol, though not cocked, if he hath either of theſe, according to the forecited author, he may be lawfully killed, becauſe he is *in actu proximo offendendi*, and yet he thinks the Defender may be arbitrarily puniſhed. 3dly, The Defender is ſaid to exceed in the Meaſure, as if he killed him for wounding, whom he might have ſhunned, or if he followed the Aggreſſor. Albeit much be left to the Arbitration of the Judge, as to all the three; Yet the general rule is, that if the Defender exceed only in either of the three, as v. g. in the Arms or Time, the exceſs is ſaid to be CULPA LEVISSIMA: if in two of theſe, as in Time and Arms, then it is accounted CULPA LEVIS, and is puniſhable: But if the Defender exceed all the three, as in Time, Arms and Way of proſecution, then it is CULPA LATA, but yet he is not puniſhable as if he had DOLOSE murdered, for

though it be a Rule *in Civilibus*, that *culpa lata æquiparatur dolo*, yet it is a Rule *in Criminalibus*, that *culpa lata nunquam æquiparatur dolo, ubi agitur de pœna corporis afflictiva.*

How self-defence is proponed & proven.

This exception of self-defence muſt be proponed againſt the relevancy, and muſt be condeſcended upon, thus, the Defender, or Pannel nowiſe acknowleging the killing, yet if he killed, it was done in his own defence, in ſo far as the Defunct drew a Sword, and thruſt, or offered a Piſtol. And though he prove not his exception of ſelf-defence, he will not therefore be condemned, except the Purſuer prove the libel. The way of proving this exception of ſelf-defence is ſo favourable, that it may be proved by preſumptions, and by witneſſes, otherways declinable, as Couſins, Servants, and Witneſſes who depone only upon credulity.

What is Homicidium Culposum, or Faulty Homicide.

§ 4. Homicidium Culposum, or Faulty Slaughter, is, where the Murder was not deſigned, and yet it was committed meerly by accident, as if one ſhould Hound a Dog at another, who ſhould Bite him at whom he was hounded, ſo that he ſhould die thereby, in that and the like caſe, the Offender is not to be puniſhed with death, but arbitrarily, becauſe *aberat animus occidendi*. The difference betwixt this and Caſual Homicide, is in this, the committer *verſatur in illicito*, but not ſo in the other, yet they both agree in this, that they wanted all deſign of killing.

Wilful Murder what and what wound is to be judged mortal.

§ 5. Wilful Murder is committed by fore-thought Felony, and if he who intended to kill one, did not by a miſtake kill him, but killed another, yet he is to die, becauſe he killed a man deſignedly. Since the deſign of killing depends much upon the nature of the Wound given, then where the Wound was not deadly, the Inflictor thereof cannot be puniſhed as a Murderer, though the Perſon wounded, thereafter die: And though ſome be of opinion, that if the Party live three days after receiving of the Wound, the ſame is thereby preſumed not to be mortal: Yet generally this is referred to the arbitriment of the Judge, who is in this to follow the opinion of Phyſicians, or of one Phyſician, if more were not preſent: But if they Vary, then the Judge ſhall not incline to puniſh by death, but by an extraordinary puniſhment. For Murder is not to be inferred but from a concluding probation: and if the Wound be but ſmall, and a Fever follow, then it is preſumed that the Party died rather of a Feaver, eſpecially if the perſon wounded walked a foot for forty days: And ſeeing ordinarly, Wounds that are mortal do kill the Receiver in that time, it were therefore not hard to conclude, that he who dies thereafter, dies not of his Wounds if he has walked a foot all that time.

Killing of Robbers, Murderers and Adul-

§ 6. Night Thieves, Robbers, and Murderers, may be killed without any puniſhment, when private perſons are warranted to purſue them by Sheriffs, Juſtices of the Peace, or Privy Counſellors, and the Robber or Murderer reſiſts to be apprehended.

And by the Civil Law, it was lawful for a Father to kill his own Daughter, if he found her committing Adultery, and to kill alſo her Adulterer: And if the Huſband kill the Adulterer of his Wife, he was only to be puniſhed by ſome arbitrary puniſhment, but not by death. See the Title of the *Pandects de Adulter.* But there is no ſuch deciſion yet happened in this Country. In the Memoirs of the Marquiſs of Langallerie printed at London, in the year 1708, page 85. the following paſſage is related, viz. a Citizen of Madrid, finding a Frenchman and his Wife on the Bed, ſtobbed them both. After the execution, he goes out with his Dagger in his hand, ſtained with the Blood of theſe two perſons, and preſents himſelf before the Judges, who were then upon the Bench. The Court of Juſtice, without any other formality upon the recital of the action, declared him innocent; This he ſays happened in the year 1700, and the Frenchman was a Gentleman of the retinue of the French Ambaſſador. Adulterers, how Warrantable.

§ 7. MONOMACHUS, or, the Fighter of a ſingle Combat, is, *ſingulus qui pugnat cum ſingulo.* By the 12. Act of the 16. Par. Jac. 6, all ſuch Fighters are puniſhable with death, albeit none of them be killed, and the Provoker is to be puniſhed with a more ignominious death than the Defender. The giving or accepting Challenges to Fight, and thoſe who carry them, and the Seconds of ſuch, may be puniſhed by the Council Arbitrary, although Combat follow not, becauſe they tend to diſturb the Peace. The General Aſſembly, by their Act 1648, diſcharges Duels, and ordains all who ſhall Fight them, or make, write, or receive, or with their knowledge carry Challenges, or go to the Fields, either as principals or ſeconds to Fight, the contraveeners are to be brought into public twice, once in order to their being rebuked, and again, in order to the profeſſing their repentance. (But the method of Cenſuring ſuch now, is to be regulate according to the Form of Proceſs Enacted by Aſſembly 1707, of which more hereafter LIB. 4.) if the perſon guilty be Elder or Deacon, he is to be depoſed, and whoſoever ſhall refuſe to ſubmit to the Cenſure appointed by the Church, ſhall be proceſſed to excommunication. And by Cap. 14. Art. 32. of the French Church Diſcipline, the ſame upon the matter is Enacted. Fighters of Duels, how puniſhed and cenſured.

§ 8. Self-murder is puniſhed with confiſcation of moveables, and Chriſtian Burial is denied them. Furioſity and Madneſs ought to defend againſt this puniſhment, even though he hath lucid intervails, ſeeing it is more humane to preſume he killed himſelf in his madneſs, except it can be proved, that he uſed even in his lucid intervals to wiſh he were dead, or to commend ſelf-murder. An endeavour to kill ones ſelf, is puniſhable by confiſcation, as ſelf-murder. But it may be reaſonably feared, that the inflicting that puniſhment upon it, will tempt the poor creature to renew his endeavour with better ſucceſs. Self-murder Self-murder how puniſhed, and what defends againſt its puniſhment.

may likeways be committed by ommission, as if a man should designedly starve himself.

Parricide what, and how punished.

§ 9. Parricide is a crime which is committed by killing our Parents, or, by the Civil Law, ascendents or descendents in any degree. By the 220 Act Parl. 14. Jac. 6. Parricide is punished only in him who kills his Father, or Mother, Good-sire, or Good-dame, and they are ordained to be disinherited IN LINEA RECTA.

Murder of Children, how proven.

§ 10. By the 21. Act of King William and Mary's Par. for preventing the Murder of Children, it is Enacted, that if any Woman shall conceal her being with Child, during the whole space, and shall not call for and make use of assistance in the Birth, the Child being found dead or a missing, the Mother shall be holden and repute the Murderer of her own Child, though there be no appearance of Bruise or Wound upon the Body of the Child.

Abortive potions how punishable.

§ 11. The taking of Potions to cause abortion, after the Child was quick, should be capitally punished, though the using such means before the *fœtus fuit animatus*, or to hinder conception, is to be punished arbitrarily. By the 91. *Canon Concilii sexti in* Trullo, it is thus determined, *Eas quæ dant Abortionem facientia Medicamenta, & quæ fœtus necantia venena accipiunt, Homicidæ pœnis subjicimus.*

The exposers of infants, how punished, & if they be Bastards.

§ 12. If the exposed Infants do thereby die, the exposers are as guilty as the takers of Abortive Potions, especially if the place was solitary and remote from Society, and where Beasts might devour them. But if they were exposed where people resort, and might easily be seen, these who laid them down are only to be punished arbitrarily. Since in this Land most rarely are Children lawfully begotten ever exposed, therefore we are not obliged to repute them otherways than unlawfully begotten, see *Matthæus de Crim. Expos. Infant.* The Parish where such Children are found, is certainly at first, to bear the burden of their maintenance and education.

TITLE XI.

Of Incest,—Adultery,—Bigamy,—Rapes,—Fornication, Et de Venere Monstrosa.

Incest what its kinds, & how punished.

§ 1. INCEST is defined by Civilians, to be, *fœda & nefaria maris et fœminæ Commixtio, contra reverentiam sanguini debitam;* and they divide it into two kinds, viz. that which is against the Law of Nature, of this sort is all copulation between ascendants and descendants; The other branch is that, which is against the municipal Law of the Country, but our Law does not observe this distinction, for it is Enacted by Parl. 1. Jac. 6. Act 14. that whosoever pollutes his Body

with ſuch perſons in degree, as God's word doth contain, Levit. xviii. ſhall be puniſhed with death. By the Act of Aſſembly 1648. Seſſ. 38. inceſtuous perſons, in caſe the Magiſtrate doth not puniſh them capitally, are to make public profeſſion of repentance for the ſpace of 52 Sabbaths; But this Act is innovate and amended by the 4th Act of Aſſembly 1705, and the 11th Act of Aſſembly 1707.

Adultery what.

§ 2. Adultery is the violation of another's Bed; Hence ſome give its derivation *ad alterius thorum*, and is committed by married perſons lying with an unmarried, or an unmarried perſon lying with one who is married. If the Woman with whom the Adultery is committed was at that time living as a common Whore, and the committer was a ſingle man, and knew nothing of her being married, his puniſhment ſhould be moderated on that account, but if the man was married, the crime is the ſame, whether the woman was a Whore or not, it being ſtill a violation on his part. And that the lying with a man's betrothed or affidat Spouſe, may be conſtructed Adultery, ſee page 146, 147, for he who lies with one who is to be ſhortly married, renders the ſucceſſion as doubtful as he who lies with a married Wife.

The difference betwixt ſingle and notour Adultery.

§ 3. Notour Adultery is by the 74. Act Par. 9. Queen Mary, declared to be puniſhable by death, after premonition is made to abſtain from the ſame manifeſt and notour crime. Yet by the explication of this Act given by the 105. Act Par. 7. Jac. 6, that is only declared to be notour Adultery, where. Firſt, There are one or more Children procreated betwixt Adulterers. 2dly, When they keep company or Bed together notoriouſly known. 3dly, When they are ſuſpected of Adultery, and thereby give ſlander to the Kirk, whereupon being admoniſhed to ſatisfy the Kirk, they contemptuouſly refuſe, and for their refuſal are excommunicate. If either of which three degrees be proved before the Juſtices the committers are puniſhable by death.

Adultery how puniſhable.

§ 4. Albeit there be no expreſs Law for inflicting death upon ordinary Adulterers, yet Mackenzie on this Title thinks, that Judges are not hindred to inflict the puniſhment of death upo ordinary Adulterers, by any thing expreſſed in that forecited Act of Jac. 6. Otherwiſe, it ſhould be an Act in prejudice of the Law of God, which expreſsly ordains Adulterers to be put to death, Deut. xxii. by Juſtinian's 134. N. Cap. 11. The Civil Law is altered, appointing death to be inflicted upon Adulterers; and by the Law of moſt Nations, Adultery is only puniſhed by pecuniary mulcts. With us notour Adultery has been puniſhed with death, and ſingle Adultery Arbitarie.

How the church cenſures Adulterers.

§ 5. By the Act of Aſſembly Auguſt 5th, 1642, all Preſbyteries are ordained to give up to the Lords of Juſticiary, the Names of the Adulterers and inceſtuous perſons, Witches and

Sorcerers within their Bounds, that they may be proceſſed and puniſhed according to Law. By Aſſembly 1648, Seſſ. 38. a perſon being once guilty of Adultery, is to make public profeſſion of repentance twenty ſix Sabbaths in Sackcloath, and a relapſe in Adultery three Quarters of a Year: But this Act is innovate and amended by the forecited fourth Act of Aſſembly 1705. And by that ſame Act 1648, perſons guilty of relapſe in Adultery are to be more ſummarily excommunicated.

The Marriage ought to be proved, & what probation is requiſite in Adultery.

§ 6. Since Adultery is only committed by married Perſons, it is therefore requiſite that the Libel in Adultery bear, that ſuch perſons were married, and except it be proven or be notour to the aſſize, they ſhould not file the Pannel, though copulation be proved. Adultery may be proven by ſtrong and violent preſumptions, as the being in Bed together alone, and being Naked, and the being frequently alone together: Likewiſe Gifts, Love-Letters, Cloſe Doors, the Wife's being abroad all Night, the entertaining perſons that are known to be Pimps, and cohabitation, are all preſumptions, upon which it is ordinary for aſſizes to file Pannels, with the aſſiſtance of any other probation.

How ſhe is to be cenſured, who lies with an unknown man.

§ 7. By the 11. Act of Aſſembly 1707, Cap. 4. if the Woman who hath brought forth the Child, doth declare ſhe knoweth not the Father, and that ſhe was not forced, whether married or unmarried, the ſame cenſure is to be inflicted upon her as in the caſe of Adultery. But if ſhe alledge ſhe was forced in the Fields by a perſon unknown, in that caſe the former behaviour of the woman ſhould be enquired into, and ſhe ſeriouſly dealt with to be ingenuous; and if ſhe hath been of intire Fame, ſhe may be put to it to declare the truth, as if ſhe were upon Oath, but not without the advice of the Preſbytery, and no formal Oath ſhould be taken.

Bigamy what, & its puniſhment

§ 8. In our Law a man marrying two Wives, or a Woman marrying two Huſbands, commits Bigamy: And this is accounted by the 19. Act Par. 5. Queen Mary, a Breach of the Oath made at Marriage, and therefore is puniſhable as perjury, by confiſcation of all their moveables, warding of their perſons for year and day, and longer during the Queen's Will, and as infamous perſons never to bruik Office, Honour, Dignity, or Benefice in time coming. It may be doubted if Quakers can be puniſhed as perjurers, ſeeing they give no Oath at Marriage, and certainly they ſhould, ſeeing Marriage implies a Vow, though no explicite Oath be given. It may be doubted alſo if the two perſons marrying be guilty of Bigamy *eo ipſo* that they Marry, though becauſe of ſome interveening accident they Bed not, but ſeeing by the ſecond Marriage they give contrary oaths, certainly they are guilty of perjury; For perjury being the *Medium peccati* in this crime, and not *copulatio* or *coitus* as in Adultery. *Reatus contrahitur per contraria vota.*

§ 9. Rape, or Raviſhment, is that crime which is committed

the violent carrying away a woman from one place to another, for satisfying the Ravisher's Lust, and is in the Civil Law punishable by death. L. *Un.* C. *de Rap. Virg.* &c. The Canon Law discribes it thus, *Est rapina et violentia quædam, qua mulier de cujus nuptiis nihil actum est antea, abducitur, invitis parentibus.* By the 4. Act Par. 21. Jac. 6. it is declared, that albeit the consent and declaration of the Woman ravished, declaring that she went away of her own free will: may free the Committer from capital punishment, yet shall it not free him from arbitrary punishment; Which Act insinuates that the crime with us is otherwise capital. A Rape, what, & its punishment

§ 10. Since Minors are punishable for Adultery, much more ought they for a Rape: for men in these years, are more prone and liable to perpetrate such extravagancies, than when at a greater age. Though it may seem that Whores are *infra legum observantiam*, and ought not to have protection from law, who offend against it; Yet if the Whore be now become a Penitent, and reconciled to the Church, and for a long tract of time hath had a chaste and laudable conversation: It may be doubted, if the Ravisher of such a person, may not be punished *pœna ordinaria.* Minors, and such as force common whores how punishable.

§ 11. Fornication is committed by the carnal knowledge of unmarried persons, the Canon Law distinguisheth thus, *stuprum* (says they) *est Virginis defloratio et illicitus cum vidua concubitus.* That Law commands such abusers of Virgins to Marry them, the Parents consenting thereto, and if they refuse to do so, his Body is to be chastised, and himself excommunicated. But if the Father of the corrupted Virgin will not bestow her upon him in Marriage, then the man is obliged to give her such a dowry as Virgins of her degree and quality use to get. That same Law says, simple Fornication is *Concubitus soluti cum soluta et impudica*, the punishment whereof is left unto the Judges discreation. That there should be a distinction of punishment inflicted upon the Deflowrers of Virgins, and abusers of honest Widows, from these who abuse themselves with such Women who have sinned so already is very reasonable. By the Act of Assembly, August 10th, 1648, Fornicators are to make profession of their repentance three several Sabbaths; Who are guilty of a Relapse therein, six Sabbaths; Who are guilty of a Trilapse, twenty six Sabbaths; And of a Quadrilapse, three Quarters of a Year, all in Sack-cloath, and are first to appear before the Presbytery, confessing their Sin there, e'er they be admitted to public profession of repentance for it: But this Act is reformed and amended by the Form of Process, enacted Assembly 1707, of which hereafter. By Cap. 38. Sess. 1. Par. 1. Car. 2. Fornication is fineable in 400 LIBS, to Noblemen, 200 LIBS, the Baron, 100 LIB, the Gentlemen and Burgess, and ten pounds every Inferiour Person; And that the pain be doubled *Toties* Fornication, what, & how punished and censured.

Quoties, and to be levied off the man as well as the woman, to be applied to pious uſes. But if Fornicators be inſolvent, they are to be puniſhed corporally, according to the 13th Act, Par. 1ſt, Jac. 6th.

What defends againſt the puniſhment

§ 12. Albeit the ſubſequent Marriage of Fornicators may defend them from civil puniſhment, and likewiſe legitimates the Children begotten before Marriage, according to the preſent practice, yet the Church doth not Judge the Scandal, given to be thereby removed: and therefore by their Act June 11th, 1646, they appoint all married perſons, under public Scandal of Fornication before Marriage, although the Scandal thereof hath not appeared before Marriage, to ſatisfy publicly therefore, their being in the ſtate of Marriage notwithſtanding, and in the ſame manner they ſhould have done if they were not married.

VENUS MONSTROSA, how puniſhed.

§ 13. According to *Mattheus de Criminibus*, *Monſtroſa Venus eſt quæcunque vel virum vel fœminam mentitur*. With us the confeſſion of Sodomy itſelf, without any other adminicles is ſufficient to infer the puniſhment of death, except the confeſſor be known, or at leaſt ſuſpected to be diſtempered. Beſtiality is likewayes puniſhable with death, and the endeavour is as highly puniſhable, if the Delinquent was only hindered by others; In both theſe crimes witneſſes who are liable to exceptions will be received, becauſe of the atrocity of the crime, as ſome Authors think; See M'kenzie on this Title. We have reaſon to bleſs God that theſe crimes are rarely committed, and ſome of them not ſo much as known in this Land, and therefore never any particular ſtatute againſt them hath yet been made. But our libels againſt them, bear, that albeit by the Law of the Omnipotent God, as it is declared Levit. xx. as well the man who lieth with mankind, as the man who lieth with a Beaſt be puniſhable with death, &c. The ordinary puniſhment in both theſe is burning, and the Beaſt is alſo Burnt or drowned, with which the beſtiality was committed: Partly for the prevention of Monſtrous Births, and partly to blot out the memory of ſo loathſome a crime.

TITLE XII.

Of Penny Bridals, Promiſcuous Dancing, Stage Plays, Immodeſty of Apparel, Drunkenneſs, Tipling, and Acts in General againſt Profaneneſs.

Penny-Weddings how reſtrained.

§ 1. PENNY-weddings are neither by our civil nor eccleſiaſtical conſtitutions abſolutely diſcharged, for that were to deprive the poorer ſort of the ſatisfaction of meeting with their Friends on that occaſion. But our Aſſembly conſidering that many perſons do invite to theſe Penny-weddings exceſſive Numbers, among whom there frequently falls out Drunkenneſs and Uncleanneſs, for preventing whereof, by their

Act February 13th 1645, they ordain Presbyteries to take special care for restraining the abuses ordinarily committed at these occasions, as they shall think fit, and to take a strict account of the obedience of every Session to their orders thereanent: And that at their Visitation of Parishes within their Bounds; Which Act is ratified March 8th, 1701. And by the 12th Sess. Assembly 1706, Presbyteries are to apply to Magistrates for executing the Laws relating to Penny Bridals, and the commission upon application from them are to apply to the government for obliging the Judges, who refuse, to execute their office in that matter. By the 14th Act, Par. 3d, Car. 2d, it is ordained, that at Marriages, besides the married persons, their Parents, Brothers and Sisters, and the Family wherein they live, there shall not be present above four Friends on either side. And if there shall be any greater Number of Persons at Penny-weddings, within a Town or two Miles thereof, that the Master of the House shall be fined in the Sum of five hundred merks.

§ 2. The General Assembly by their Act July 10th, 1649, finding that scandal and abuse arise through promiscuous Dancing, do therefore discharge the same; The censure thereof is referred to the several Presbyteries: Which is ratified March 8th, 1701, by the Church Discipline of France, Cap. 14. Art. 27, these who make account to Dance, or are present at Dancing, after having been several times admonished, shall be excommunicated upon their growing obstinate and rebellious, and all Church Judicatories are to see this Act put to execution. By the 53. *Canon* Concilii Laodiceni, *Non oportet Christianos ad nuptias venientes ballare vel saltare, sed modeste Cœnare vel prandere, ut decet Christianos.*

Promiscuous dancing censurable.

§ 3. By the 28. Art. of the forecited Chap. of the French Church Discipline, Christian Magistrates are exhorted not to tolerate Hocus Pocus, and Slight of Hand Plays, nor Puppet and Stage Players, neither shall it be lawful for believers to assist at Comedies or Tragedies, and such other Plays, acted in public or private, seeing that in all ages they have been prohibited among Christians, as tending to the corrupting of good manners. Nevertheless, when in Colleges it shall be thought fit that Youth may represent some History, it may be tolerated, providing it be not contained in the Holy Scriptures, and done very seldom, and even then by advice of the Colloquy, which shall first be satisfied with the composition. In the third Book of the *Digests*, *Tit.* 2. *De his qui notantur Infamia. L.* 2. § 5. *sub Fin. Eos enim qui quæstus causa in certamia descendunt, & omnes propter præmium in scænam prodeuntes, famosos esse.*

Stage-Plays &c. condemned.

§ 4. By the 25th Article of the above-cited chapter of the French Church Discipline, The Churches shall advertise Believers to use great modesty in Apparel, and shall give order to a-

Immodesty of Apparel condemned

bate the superfluity therein committed. Nevertheless, the Churches shall make no Law thereabout, the making of such appertaining to the Magistrate. And by the 26. Art. all persons who wear Habits that have open marks of dissoluteness, shame, and too much newness, as painting, naked breasts and the like, the Consistory shall use all possible means to supress such badges of immodesty by Censures. All obscene pictures, which are apt to dispose and incite to unclean thoughts and desires, are most improper furniture for the houses of Christians, and therefore the Users of them may fall under Church Censure if they be not removed.

Means & confiderations for preventing Drunkenness.

§ 5. Temperance is the Golden Mids between Abstinence and Intemperance; for attaining whereof, when we are sufficiently strengthened and refreshed with our ordinary diets, we should abstain betwixt them, and if we will not suffer ourselves to be thus rationally bounded I cannot see how we can otherways eschew the evil of being tempted to excess in Drinking, both from the specious pretences and solicitations of our own voluptuous tempers, and the inticement and example of others: And if we transgress the bound above-proposed, we cannot but fall into tentation: For as *Card. Bona, de vitæ Christianæ principiis* saith, *sæpe nescimus utrum subsidium petat inevitabilis corporis cura, an fallacia concupiscentiæ nos decipiat, et in hac incertitudine hilarescit infelix anima, ut salutis obtentu intemperantiam excuset.* Our Law seems to approve and appoint this manner of bounding, for the 20. Act, Par. 22. Jac. 6. dischargeth all haunting of Taverns and Ale-houses after ten hours at night, or any time of the day, excepting time of Travel, or for ordinary refreshments, under the pain of being punished as Drunkards. And therefore, if one accused for drunkenness, deny the same, or impute the signs and effects thereof proven against him, to other causes, as sickness of the stomac, giddiness of the head or the like; these defences, though they may be true, yet are not relevant to defend the accused against the punishment of Drunkenness, providing his tipling be proven by the unseasonable haunting of Taverns; And it needs not be thought hard that no distinction is made betwixt Drunkenness and Tipling, seeing it is a common observation, that Tiplers are harder to be reclaimed than Drunkards themselves.

Tipling punishable, as Drunkenness.

Drinking of Healths a Snare; Drunkenness, how punished.

§ 6. Among the remedies proposed against the corruption of the Ministery, by Assembly June 13th, 1646, Act 11. Ministers are not only to forbear Drinking of Healths, called Satan's Snare, leading to excess, but likewise to reprove it in others; And the following Act of Parliament punishing the Sin of Drunkenness, doth appoint excessive drinking, especially under the name of Healths to be punished. The Act I mean is 19. Sess. 1. Par. 1. Car. 2. Which Enacts that who drinks to excess, or haunts Taverns as above, shall pay, the Nobleman 20

Sir: The Baron 20 merks, The Gentleman, Heretor, or Burgess 10 merks, the Yeoman 40 Shilling, and the Servant 20 Shilling, toties quoties, and the Minister the fifth part of his Stipend: Which Fines are to be applied as the Fines for other immoralities, and the Insolvent are to be punished in their persons.

§ 7. Such as commit Crimes in their Drink, are sometimes for want of design and malice, more meekly punished than others, especially if they were cheated, upon design, into that condition by others. And in this case, the Law distinguisheth inter Ebrios, who are rarely Drunk, and Ebriosos, who are habitually such; For these last should be most severely punished, both for their Drunkenness, and the Crimes occasioned by it. And such as make themselves drunk, upon design to excuse or lessen thereby the Sin they are to commit, merit no favour; And such as know they were subject to extravagancies in their Drink, merit as little. Persons that are incapable and stupid through Drink, the Law not only forbids People to contract with them, but makes all Contracts then made reducible on that head: The Law is so far from countenancing Fraud, that it repairs the injured against it; See Stair's Instit. page 98. and 602.

If such as are drunk be punishable for crimes, and can contract.

§ 8. By the 40. Act, Sess. 4. Parl. King William and Queen Mary, Presbyteries are ordained to appoint Informers against, and Prosecuters of Profane Persons, within their Bounds before the civil Magistrate. And by the 13th Act of the following Session of that Parliament, all Magistrates are strictly required to execute the Laws against Profaneness at all times, and against all persons, whether Officers, Soldiers, or others without exception. And if any of these Judges shall refuse or delay to put the said laws to execution upon application from Minister, Kirk-Session, or any in their name, giving information, and offering sufficient probation against the Offender, that every one of the Judges so refusing or neglecting, shall, Toties Quoties, be subject and liable to a Fine of an Hundred Pounds, to be applied for the use of the Poor of the Parish where the Scandal was committed. Declaring hereby, that any for the Kirk-Session or Minister, having their Warrant, may pursue any of these negligent Judges before the Lords of Session, who are ordained to proceed summarily, and that it shall be a sufficient probation of the Judges Refusal, if the Pursuer instruct by an instrument under a Notary's Hand, and Witnesses thereto subscribing, and deponing thereupon, that he made application to the said Judge, unless the Judge so pursued, condescend and instruct, that within the space of ten days after the said application, he gave order to cite the party complained on, within the space of ten days, and at the day of compearance, he was ready to have taken cognition of the Scandal complained on, and instruct and condescend on a Relevant Reason why the Laws were

Presbyteries may appoint informers against Vice. And how Judges refusing to punish the same are liable.

not put to Execution. By the 31. Act of the 6. Seſſ. of King William's Parl. it is Ordained, that in every Pariſh, where any of the ordinary inferior Judges happen to reſide, they ſhall execute the Laws againſt Profaneneſs, and Mocking Religion and the exerciſe thereof, at the inſtance of any perſon whatſoever who ſhall purſue the ſame; Certifying them if they failzy therein, either by themſelves, or their Deputes, the Lords of Seſſion will appoint Judges in that part. And in other Pariſhes where no ſuch Magiſtrates do reſide, It is Ordained, that the foreſaid Perſons ſhall appoint Deputes for the ſaid Pariſhes, with the power and for the end foreſaid, ſuch as ſhall be named to them by the Heretors and Kirk-Seſſion thereof. But, really, it is foreign to Members of a Church-ſeſſion, conſidered as ſuch, to chooſe or preſent a Civil Magiſtrate, even as it is to a Civil Court, as ſuch, to chooſe or preſent the Members of a Kirk-Seſſion. And farther, they diſcharge Advocation, SIMPLICITER, of Proceſſes, againſt Immorality from theſe Pariſh Judges; And likewiſe, all Suſpenſions of their Sentences without conſignation or liquidate Diſcharges. It is alſo Ordained, that in caſe of calumnious Suſpending, the Lords of Seſſion, decern a third part more than is decerned, for Expences; And likeways, they appoint the Fines to be inſtantly paid in to the Pariſh Collector for the Poor, or the Party impriſoned till ſufficient Caution be found for payment of the ſame, or otherways to be exemplarily puniſhed in his Perſon in caſe of inability. It is alſo enacted, that no pretence of different perſuaſion in matters of Religion, ſhall exeem the Delinquent from being Cenſured and puniſhed for ſuch Immoralities, as by the Laws of this Kingdom are declared to be puniſhable by Fining. And it is recommended to the Privy Council, to take further effectual courſe againſt Profaneneſs, and for encouraging of ſuch as ſhall execute the Laws againſt it.

Pariſh Magiſtrates for puniſhing Vice, their Sentences not to be advocate or ſuſpended.

Difference in Religion exeems not from church Cenſure.

Diſcipline to be faithfully exerciſed, and how the quality is to be admoniſhed.

§ 9. By the Acts of Aſſembly for ſuppreſſing Profanene ſs, they appoint as follows. That Church Judicatories execute diſcipline faithfully againſt all Scandalous Converſation, and in Particular, againſt Drunkenneſs and Swearing, but with that Gravity, Prudence, and Meekneſs of Wiſdom, as may prove moſt effectual for reclaiming them. And Miniſters are to be free with Perſons of Quality for amending of their Faults, and if it be found needful, Preſbyteries are to appoint ſome of their Number to concur with the Miniſter in admoniſhing ſuch. Maſters of Families are to receive no Servants, but ſuch as have Teſtimonials of their honeſt Behaviour, and none ought to get Teſtimonials, but ſuch as are free of Scolding, Swearing, and ſuch like more common Sins, as well as Fornication, Adultery, Drunkenneſs, and other heinous groſs Evils. And the ordinary time of giving Teſtimonials is to be in Face of Seſſion; But if an extraordinary exigent happen, let it be given by the Miniſter with con-

Who grant and uſe teſtimonials, their Contents.

ſent of the Elder of the Quarter. If they have fallen, or relapſed into ſcandalous Sins, let their Teſtimonials bear both their fall and repentance; But it were more charitable that the ſcandal were ſuppreſſed, and remembered no more. And perſons of quality removing to Edinburgh or elſe where, with their families and followers, if they carry not Teſtimonials along with them, the Miniſter from whom they remove, ſhall advertiſe the Miniſter to whom they come, if to his knowledge they be lying under any Scandal. It is recommended to Miniſters, Preſbyteries, and Seſſions, to meet together for private Faſting and Prayer, and Conference about the State of the Church, with reſpect to the growth and decay of godlineſs, and ſucceſs of the goſpel; and in theſe days the Preſbyteries ought to paſs their privy Cenſures, and both Synods and they are exhorted to perform them with more accuracy, diligence and zeal. It is appointed, that Miniſters be frequent in private perſonal conference, with thoſe of their charge, about the ſtate of their Souls. And Preſbyteries are to take ſpecial Notice of Miniſters, who do converſe frequently and ordinarily with Malignants, and with ſcandalous and profane Perſons, eſpecially ſuch as belong to other Pariſhes. Whereas Men of Buſineſs for their too late ſitting in Taverns, eſpecially on Saturday's Night, do pretend relaxation of their minds; Therefore it is recommended to Miniſters, where ſuch ſinful cuſtoms are, to repreſent the evil thereof both publicly and privately, and call ſuch to redeem that time, which they have from buſineſs, and employ the ſame in Converſing with God. It is appointed likewiſe, that Carriers and Travellers bring Teſtimonials from the Places where they reſted on theſe Lord's Days wherein they were from Home, to their own Miniſters. An Abſtract of all Acts of Aſſemblies againſt Profaneneſs, is to be got and Printed, and alſo it is Overtured, that an Abſtract of all Acts of Parliament againſt the ſame be gotten. And each Preſbytery is to hear the ſame read twice a year, at two Diets to be appointed for that effect. And it is likewiſe recommended to Preſbyteries, to prepare Overtures to General Aſſemblies, that they being found proper means for curbing of vice, may by them be Enacted. It is appointed, that perſons groſsly Ignorant be debarred from the communion, for the firſt and ſecond Time, ſuppreſſing their Names, for the third Time expreſſing their Names, and for the fourth time let them be brought to public Repentance: This is to be underſtood of thoſe that profit nothing, nor labour for knowlege; for if they be labouring to profit, they ought by the Act of Aſſembly to be treated with more forbearance. All which means for ſupreſſing of Profanity, are Enacted by Aſſemblies, Auguſt 10th, 1648—April 14th, 1694—January 24th, 1698—January 30th, 1699.

Seſſions & preſbyteries are to keep Days for Prayer, and paſs privy Cenſures duly, and. Miniſters to be frequent in converſe.

Men of buſineſs not to be excuſed for tarraying late in Taverns, & Carriers muſt have teſtimonials

Abſtracts of Acts of Parliament & Aſſembly againſt vice to be got.

Groſs Ignorance how to be cenſured.

TITLE XIII.

Of Theft,—Sacrilege,—Uſury,—Falſhood,—Beggars and Vagabonds.

Theft what how puniſhed, & when excuſable.

§ 1. THEFT is deſcribed by Lawyers to be *Fraudulosa contrectatio, lucri faciendi gratia, vel ipsius rei, vel etiam usus ejus possessionisve, quod lege naturali prohibitum est.* By the word *Contrectatio* they underſtand, not only the taking away of a Thing, for Theft is committed not only by concealing what was taken from another, but likewiſe the uſing a Thing depoſitate or impignorate to other ends and uſes than was agreed upon. When one is urged by neceſſity, not from a deſire to gain, to take Food or Raiment from the Owners thereof, without their conſent, he is not to be deſpiſed, but rather pitied and pardoned, Prov. vi. 30. By the 83. Act Par. 11. Jac. 6. it is ſtatute, that whoſoever deſtroys Plough, or Plough-harneſs in time of Tilling, or wilfully deſtroys the Corns, ſhall be puniſhed therefore by the Juſtices to the Death as Thieves. But our practique in this is a little arbitrary and uncertain. By the 26. Act Seſſ. 1. Par. 1. Car. 2. It is appointed, that the perſon from whom goods are ſtollen, purſuing the Thief, USQUE AD SENTENTIAM, ſhall have his own Goods again, wherever they can be had, or the Value, and he is to have his Expences of proſecuting the Thief, out of the readieſt of the Goods which belong to the ſaid Thief.

How ſtollen Goods are to be recovered.

Sacrilege what, and how puniſhed.

§ 2. *Sacrilegus dicitur qui sacra legit.* By the Canon Law Sacrilege is committed, either properly, when a Thing Sacred is taken out of a ſacred Place: or leſs properly, when a Sacred Thing is taken out of a profane place, or when a profane Thing is taken out of a Sacred place: This Crime is likewiſe committed when Sacred Things are imbezzeled. Though with us, there be no formal conſeerations of Churches, Veſtments, Cups, &c. yet to ſteal any thing deſtinate to God's Service, or even to ſteal any Thing out of a Church, ought to be looked on as an aggravation of the Crime of Theft.

Uſury what its ſeveral Branches, how it is proven and puniſhed.

§ 3. The taking of more Annual-rent, than the QUOTA ſtated by Law, is the firſt Branch of Uſury; The Second is, to take Annual-rents, before the term of payment; The Third is, to take Wadſets in defraud of the Law; by doing this, they do not take more Annual rent directly than what is preſcribed by the Law, but they take Wadſets of Land from the Debitor, for more than their Annual rents can extend to, and then they ſet back tacks to him, for payment of what is agreed upon. The Fourth Branch of Uſury with us, is, to take Bud or Bribe for the Loan of Money, or for continuing it. But it were againſt reaſon, that by lending Money to my Friend, I ſhould become incapable of a donation from him. By the 7. Act Par. 16. Jac.

6. it is appointed, that Uſury ſhall be proved by the Oath of the Party Receiver, of the unlawful annual rent, and Witneſſes inſert, without receiving the Oath of the Giver, of the Uſury, for eviting Perjury. The pain of Uſury with us, is, that the Debitor ſhall be free from his Obligation, or have back his Plege, or if the Debitor conceal, then the Revealer ſhall have right to the ſums. Act 222. Parl. 14. Jac. 6. and by 248. Act Parl. 15. Jac. 6. it is appointed, that the Uſurary Bond or Contract ſhall be reduced, and being reduced, the ſum ſhall belong to His Majeſty or his Donators; and the Party to have repetition of the unlawful annual rent paid by him, in caſe only he concur with the Donator in the Reduction. Uſury is called CRIMEN UTRIUSQUE FORI, and how Miniſters are to be cenſured for it, ſee LIB. 4. TIT. 5.

§ 4. Falſhood is a fraudulent ſupreſſion, or imitation of truth in prejudice of another. This deſcription of CRIMEN FALSI, or FALSITAS, doth agree with that given by the Canoniſts, viz. *Eſt fraudelenta ſive doloſa veritatis imitatio, vel occultatio.* This crime is committed in writ, either by producing a falſe Writ, if the knew it to be falſe, and abide by it, or by fabricating a falſe Writ. Again, it is committed by omiſſion, in a Notary's not ſetting down what he was required to inſert in his inſtrument, or the omitting to expreſs the day and place, when the omitting thereof might have been diſadvantageous. By the 22. Act of Par. 23. Jac. 6. the Makers or Uſers of falſe Writs, or acceſſory to the making thereof, are to be puniſhed with the pains of Falſhood; and the Counterfeiter,—Falſifyer, or Acceſſory cannot by paſſing from the Writ quarrelled, free himſelf from the puniſhment. The puniſhment of Forgery is declared by Act 22. Par. 5. Queen Mary, to be Proſcription, Diſmembering of the Hand or Tongue, and other pains of the Canon or Civil Law. The ſecond ſpecies of Falſhood is, that which is committed by Witneſſes in their Depoſitions, by taking money to depone or not to depone; by concealing the truth or expreſſing more than the truth, though they received no money. And thirdly, by Deponing Things expreſsly contradictory, but in this caſe, the Contradiction muſt be palpable and conſequential, *Nam omnis Interpretatio præferenda eſt ut dicta teſtium reconcilientur.* By chap. 46. Par. 6. Queen Mary, Falſe Witneſſes, and their Inducers, are to be puniſhed by piercing their Tongues, Eſcheat of Moveables, and Infamy, and farther, at the Judge's diſcreation. Perjury differs not much herefrom, for it is defined by Lawyers to be a lie affirmed judicially upon Oath, and it is puniſhable by Confiſcation of all their moveable Goods, Warding of their Perſons for Year and Day, and longer during the Queen's will, and that as infamous perſons they ſhall never be able to bruik office, honour, dignity, nor benefice in time coming: for this ſee the 19. Act Par. 5. Queen

Falſhood what.

Falſhood in Write.

Falſhood committed by witneſſes

Perjury what, and how puniſhed.

Forging of Money, how punished.

Mary, there is a third ſpecies of Falſhood committed by Forging true Money without authority, by Coining falſe Money, or by mixing and allaying worſe with nobler mettals in current coins, or by venting and paſſing the adulterate money coined by others, or entertaining the Forgers, or being Art and Part with theſe Coiners. This crime is commonly puniſhed by death. The fourth ſpecies of Falſhood it committed by uſing falſe Weights and Meaſures. By the 19. Par. 2. Act Jac. 6. the Uſers of falſe Weights and Meaſures, are to looſe their whole goods and gear. Having of falſe Weights in the Shop, preſumes uſing, except this preſumption be taken off, by alledging that the Weights were preſently bought or borrowed, or laid aſide as light. Falſhood is alſo committed by aſſuming a falſe Name, and by preſenting one perſon for another at the ſubſcribing of Papers: for ſuch impoſtors the puniſhment of death hath been inflicted. December 12th, 1611, mentioned by Mackenzie on this Title.

False Weights, their puniſhment.

Aſſuming of a falſe Name, how puniſhed.

Beggars & Vagabonds, how ſuppreſſed and puniſhed.

§ 5. By the 22. Act Par. 4. Jac. 5. no Beggar born in one Pariſh, is to be allowed to beg in another, and Badges are to be made by the headſmen of each Pariſh for that effect; which Law agrees with thoſe of other nations, ſee Matth. DE CRIM. *improba Mendicitate.* And by the 25. Title Lib. 11. of the *Codex de validis Mendicantibus*, they are diſtinguiſhed from the Poor, and puniſhed as we do ſturdy Beggars and Vagabonds. By Car. 2. Par. 1. Seſſ. 3. Cap. 16. it is ordained, that all Maſters of Manufactories, may, with advice of the Magiſtrates of the place, ſeize Vagabonds, and idle poor perſons, and employ them in their Work, and Exact of the Pariſhes where they were born, or if not known, the Pariſhes where they have haunted for three years before, two ſhilling PER DIEM, in manner preſcribed in the Act. And thereafter may retain them in their Service for ſeven Years for Meat and Cloaths. Sturdy Beggars and Vagabonds ſhould be proceeded againſt by the Sheriffs, and other Judges, and they may exact Caution of them, but if they find none, they ſhould be denounced Fugitives, and they may be ſent to public Work-Houſes, or Correction-Houſes, or put in the Stocks, and if they be reſet after they are denounced Fugitives, their Reſetters are liable for the prejudice ſuſtained, and the parties damnified will have Action againſt the Magiſtrates, within whoſe bounds theſe Vagabonds are willingly reſet. VID. Jac. 6. Par. 1. Cap. 97. and Par. 11. Cap. 97. Par. 12. Cap. 124. 144. 147. and Par. 15. Cap. 268. and Car. 2. Par. 2. Seſſ. 3. Cap. 18. By the Act of the General Aſſembly, September 1. 1647. it is recommended to Preſbyteries, to conſider of the beſt remedies, for preventing Abuſes committed by Beggars living in great vileneſs, and many of their Children wanting Baptiſm.

TITLE XIV.

Of Art and Part.

§ 1. THESE who are assisters by counsel or otherwise, are in our Law said to be Art and Part of the Crime, by Art is meant, that the Crime was contrived by their Art and Skill, EORUM ARTE; By Part, is meant, that they were sharers in the crime committed, when it was committed, ET QUORUM PARS MAGNA. The Civilians used, in place of Art and Part, OPE & CONSILIO; by our Law such Assisters are called COMPLICES. Art and part explained.

§ 2. By the 151. Act of Par. 11. Jac. 6. it is ordained, that nothing can be objected against the relevancy of that part of the Summons, which bears, that the persons complained upon are Art and Part of the Crimes libelled. But the Judge here is to consider, whether the Adviser gave the Counsel upon the account of former malice, conceived by himself: or if it was only given in resentment of any wrong done to the Committer, and is to be more severly punished in the first case than in the last. 2dly, In the case of advice, the Adviser's age is much to be considered: for though Minors, and those who are Drunk may be punished for Murder, yet it were hard to punish them for advice. 3dly, The words in which the advice was conceived, should still be interpreted most favourably for the Adviser, for Words are capable of several and distinct senses, as they are understood by the respective Speakers, and they vary by the very accent or punctation. 4thly, If the Adviser retracted his opinion, he ought not to be punished with the ordinary punishment, if he thereafter and instantly intimated to the person against whom the advice was given, what danger he was in; and also dissuaded the Committer from following the advice given. How far advice imports accession.

§ 3. He who allowed his House to the Adulterers, for perpetrating that Crime, or for consulting about the committing thereof, is certainly punishable, though it was not committed. He who retains his Wife, after he found her committing Adultery, and lets go the Adulterer, is punishable as a LENO, Pimp, or baud, providing he take Money to conceal the Adultery, *Nam Lenocinium est, ubi Maritus quæstum facit de Corpore Uxoris.* He who gives warrant and order, or hires others to commit Adultery, deserves the same punishment with the Adulterer, and in effect he is most guilty, seeing he wants the natural tentation of the Adulterer, and commits the Crime in contempt of the Law. Who are punishable as Accessaries in Adultery. What is LENOCINIUM.

§ 4. Panders, Pimps and Bauds, making gain of the Whoredom of others by their help and advice, deserve severe punishment as accessaries to their wickedness. As likeways the keepers of Taverns and Ale-houses, who furnish their Guests with Panders, &c. & Innkeepers, how punishable for

Whoredom & drunkenneſs.

Liquors unto drunkenneſs, or Sell thoſe Liquors at unlawful times, or to Drunkards, are to be puniſhed themſelves, as Drunkards, according to the inſtructions given to the Juſtices of the Peace in the 19. Act Par. 1. Seſſ. 1. Car. 2. And there ſeems to be good reaſon for it, ſeeing the beſt of drugs given to exceſs either as to quantity or quality, and whatever overpowers our nature, is poiſonable.

The End of the Third Book.

BOOK IV.

TITLE I.

Of Scandals and Church-Diſcipline in General.—Of the Method of proceeding with the Scandalous, and how Scandals are to be Tabled before Church Judicatories.

§ 1. WE are not here to underſtand by Scandal, a thing actually diſpleaſing the party offended; nor is it always to be judged by the matter, ſeeing offence in lawful matter may be taken, where it is not given, as in that Eating and Drinking mentioned, Rom. xiv. Or, in taking Wages for Preaching the Goſpel, 1 Cor. ix. Neither is it the pleaſing of men that doth always edify them, nor the diſpleaſing of them that doth ſtumble or ſcandalize them; but Scandal is ſomething accompanying word or deed, with ſuch circumſtances as maketh that word or deed inductive to Sin, or impeditive of the ſpiritual life or comfort of others. Scandal, What.

§ 2. Church Diſcipline ſerves chiefly to curb and reſtrain the more peccant humours of Profeſſors, and therefore Sins of Infirmity, ſtrictly ſo called, which are not in themſelves ſo ſcandalous to others, ſhould not be any part of the object thereof, otherwiſe its exerciſe might prove more moleſting and offenſive than edifying and ſanative. Again, Offences from diſputable practices, or things indifferent, are not properly the object of Church Cenſure, becauſe there is not a ſolid ground therefrom for thorough conviction to the party. Further, Offences which the Church may find cannot be proven, ought not to be proſecute, for thus her authority is much weakened, and neither is the Offender edified. In the laſt place, though ſome groſs Scandals (which are not public or flagrant) may be proven by two or three Witneſſes, (eſpecially if it be againſt a perſon otherwiſe orderly) yet he is not therefore to be cited to appear in public, except upon ſuppoſition of his obſtinacy to acknowlege the offence to thoſe who knew and were offended therewith: which method is agreeable to that of Chriſt's preſcribing, Mat. xviii. for the removel of private offence. But on the other hand, Scandals ſhould be taken public notice of, when they are of their own nature groſs and infectious. Next, when the offence becometh public, though at firſt it was not ſo, and when When Offences are to be brought to Public, and when not.

it is accompanied with contempt of private admonition, or with frequent relapſes therein.

The Ends and Uſe of Church Diſcipline.

§ 3. Church Diſcipline and Cenſures are for vindicating the honour of Chriſt, that ſuffers in the miſcarriage of any member: Again, they are inflicted on the Churches account, for preſerving of her authority, Diſcipline being as the Eccleſiaſtical Whip for that end, and for preſerving her from corruption by the ſpreading of the leaven of profanity. Another end of Church Diſcipline is for the Offenders' good, that they may be aſhamed to the deſtruction of the fleſh, and ſaving of the Spirit in the day of the Lord Jeſus Chriſt, 1 Cor. v. 5.——Act 11. Aſſem. 1707. cap. 1. Sect. 3.

Offences of the ſame kind, not to be always managed after the ſame manner.

§ 4. The ſame Offences upon the matter are not to be proſecute at all times, nor againſt all perſons, and in all places, in the ſame manner: thus we ſee the Apoſtle Paul in ſome caſes cenſuring corrupt men, as Hymeneus and Philetus, 1 Tim. i. 20. Sometimes he threateneth, and yet ſpareth, albeit the Scandal did merit Cenſure, Gal. v. 12. he ſaith, "I wiſh they were "cut off that trouble you;" yet he cuts them not then off, becauſe he found not the preſent circumſtances of the Church to require it. See alſo, 2 Cor. x. 6. where he ſaith, "Having in "a readineſs to revenge all diſobedience, when your obedience "is fulfilled:" therefore it ought not always to be accounted partiality, when ſuch differences in Church Procedure are obſerved: prodivding nothing be done with reſpect of perſons, or civil or natural accounts: and alſo, providing the difference, be rather in the manner and circumſtances of proceeding againſt ſome Offences, (ſpecially if they be ſuch where no rule how to proceed againſt them is fixed) than in diſpenſing with what ſeemeth to be material.

The Order preſcribed, Mat. xviii. to be obſerved, & what it implies.

§ 5. The Order preſcribed by our Lord Jeſus Chriſt, Mat. xviii. for repairing and proſecuting of private Offences, implies, firſt, That whether they be in leſſer particulars, or in greater, yet if known to be but a few, they are not inſtantly to be brought to public, (except ſome circumſtance neceſſitate the ſame for greater edification) which order ought to be obſerved by Miniſters, Elders and private Perſons, Act 11. Aſſem. 1707. Cap. 2. Sect. 1. It implies further, That when the Perſon offending doth accept of a private admonition, there is then no more mention to be made thereof. Again, if that private admonition prevail not, then the Perſon offended is purpoſely and ſeriouſly to take two or three with him, for the further reclaiming and admonition of the Offender, before it come to the Church, which may be fitly done at miniſterial viſitation of families. Moreover it implies, if this hath not the deſired effect, then is the Offence to be delated unto the Church-Seſſion: and when it is brought there, it were fit, that ſome who had been Witneſſes to the private admonition, were brought with the par-

ties, to inform the Judicatory, and inſtruct that the Offender hath been ſeriouſly admoniſhed in private, but without ſucceſs: therefore it is convenient that the Witneſſes to the private admonition be Members of the Seſſion. In the laſt place, we may draw from this Order, that if the Seſſional Admonition have weight with the Offender, ſo as to reclaim him, and ſatisfy thoſe he had ſcandalized, there is no need for Rebuking him before the Congregation; except the forbearing a congregational Rebuke may hazard the infection of others, and encourage them to follow the Offender's practice.

When a Perſon is to be accounted Obſtinate.

§ 6. One is Obſtinate when he doth refuſe either to hear private Admonition, or doth decline to appear and anſwer before Church Judicatories, after a third Citation, either perſonally apprehended, or a copy thereof left at his dwelling-houſe: but one Citation given APUD ACTA, is peremptory, and diſobedience thereunto may infer contumacy likewiſe, Act 11. Aſſem. 1707. Cap. 2. Sect. 4, 5. In the next place, it is contempt in one, when appearing, to juſtify his offence, or deny it when evidently proven. It is alſo contempt, when one acknowleges his offence, but with a proud and inſolent behaviour; or, who uſeth haughty, reflecting, or irreverent expreſſions; Such an Offender doth thereby vilify the ordinance of Chriſt more than if he had made no compearance at all. Laſtly, it may be conſtructed a not hearing of the Church, when one continues to commit the ſame ſins, notwithſtanding of his ſerious-like penitence for the ſame.

What Satisfying, & what not for removing of Scandal.

§ 7. Every verbal acknowlegement and promiſe of amendment, ought not always to be ſo ſatisfying as to ſiſt Proceſs; for notwithſtanding of all that, the Offender's geſture when compearing, his expreſſions elſe-where, and his common walk and converſation, may convince the Judicatory that he is but a Mocker; on the other hand, Church Officers ought not to delay the removing of an offence, till they be ſatisfied that the Offender is ſincerely and graciouſly Penitent, for that would engage Church Judicatories to decide as to the ſtate of ſome Souls, which is bold for them judicially to dive into, and when all is done, impoſſible to arrive at any certainty about it. It is to be noticed, that in Church Diſcipline, a difference is to be made between what is ſatisfactory unto a Church Judicatory, ſo as to admit the Offender unto all Church privileges, as if the offence had never been; and what may be ſatisfying, ſo as to ſiſt procedure for the time. Upon the confeſſion of Simon Magus, Acts viii. 24. it is probable, that as he then did thereby prevent excommunication; So upon it, it is not probable that he was thereupon immediately admitted into Church Communion. There is requiſite then in the Offender, who intendeth to have acceſs to Church Privileges, a ſober, ſerious acknowlegment of the offence, with

the expreſſion of an unfeigned like purpoſe to walk inoffenſively, and eſpecially to watch againſt Relapſes; And if there appear no ground for hindering the Judicatory to eſteem the Offender one, who purpoſeth as he expreſſeth, they ſhould accept of his expreſſions as ſatisfactory.

Who are to be admitted to public repentance, and when to be abſolved.

§ 8. By the Act of Aſſembly 1596, ratified 1638. it is appointed, that none falling into public ſlanders be received into the fellowſhip of the Kirk, except the Miniſter have ſome appearance and warrant in conſcience, that he hath both a feeling of ſin and apprehenſion of mercy, and for this effect, that the Miniſter travel with him in Doctrine, and in private inſtruction, to bring him hereto, and eſpecially in the Doctrine of Repentance, which being neglected, the public place of Repentance is turned into a Mock. By the 4. Act of Aſſembly 1705. they do appoint and ordain (with reſpect to ſcandals, the groſſneſs whereof makes it neceſſary to bring the perſons guilty oftner than once before the Congregation) that after ſuch perſons are convict before the Seſſion, it be judicially declared unto them, that they have rendred themſelves incapable of communion with the people of God in ſealing ordinances, and that they be appointed to appear in public to be rebuked for their ſin, whether they appear Penitent, or not, conform to the divine inſtitution, 1 Tim. v. 20. and it is referred to the reſpective Church Judicatories concerned, to determine how often ſuch delinquents ſhall appear in public: and they ordain, that after a public rebuke, the Miniſter and Elders be at further pains in inſtructing the minds of the ſcandalous, and that the Seſſion upon ſatisfaction with their knowlege, and ſenſe of their ſin, do admit them to public profeſſion of their Repentance, in order to Abſolution. But, if after taking pains on them for ſome competent time, they ſtill remain groſsly Ignorant, inſenſible and unreformed, the Seſſion is to adviſe with the Preſbytery, and if the Preſbytery ſhall ſee cauſe, that then the ſentence of the leſſer Excommunication be pronounced againſt them in Face of the Congregation, from which they are not to be relaxed, nor admitted to make public profeſſion of their Repentance, in order thereto, till the Seſſion be ſatisfied with their knowlege, ſeriouſneſs and reformation.

Drunkenneſs, Swearing, &c. how to be proceeded againſt.

§ 9. By the 11. Act of Aſſembly 1707. Cap. 3. in offences, ſuch as Swearing, Curſing, Profaning of the Lord's Day, Drunkenneſs, and other Scandals of that nature, ordinarily the guilt for the firſt Fault would be ſpoken to in private by the Miniſter or an Elder, and on promiſe (from a ſenſe of guilt) to amend after admonition, they may ſiſt there; But if the perſon relapſe, he ſhould be called before the Seſſion, and if found guilty, may be there judicially rebuked, where the Seſſion on promiſe, from a due ſenſe, to amend, may again ſiſt; But if the perſon amend not after that, the Seſſion ſhould orderly proceed, unleſs Repentance, appear, and due ſatisfaction be offered, till they inflict

the Cenſure of the leſſer Excummunication.

§ 10. Perhaps an Offender may make ſuch ſatisfying acknowlegements for his Scandal, that the Judicature cannot but judge them ſufficient to remove the ſame, but only he refuſes to appear in the accuſtomed place, where ſcandalous Perſons do publicly profeſs their Repentance, in which caſe, I am ſure that formality and circumſtance of a fixed place is not of ſuch moment, as to bear the ſtreſs and weight of one ſatisfying the Church. For the Apoſtolical Order, 1 Tim. v. 20. joining all who have offended, publicly to be rebuked before all, is ſufficiently anſwered by their receiving a public rebuke for their Scandal, in the uſual place and ſeat where they hear the word preached, and that without putting of their perſon under arreſt in ſome certain place, for ſome time.

Public place of repentance a Civil punishment.

§ 11. The Key of Doctrine differs from the Key of Diſcipline, thus; The firſt doth only abſolve a ſinner upon the condition of ſaving grace, but the other doth abſolve upon an outward ſerious profeſſion of Repentance; By the one Men's Faults are only reproved, but by the other, particular perſons are by name reprehended. Though a perſon be guilty of ſome alleged ſcandalous ſin, yet a Miniſter cannot, in public, give him an eccleſiaſtic rebuke for it, without the previous trial, and thereafter the ſentance of a Church Judicatory, otherwiſe he uſurpeth their authority, and ſheweth more of himſelf than of reſpect to Church order and edification. Indeed I confeſs a Miniſter may ſometimes very conſequentially from his Text reprove ſuch ſins and their aggravations, as may make impreſſion upon all the hearers, that the application does agree with ſuch circumſtantiate ſins, whereof they know ſuch perſons to be guilty. In which caſe, the reproof is to be regarded as coming from the Word of God: but if there muſt be a plain deviation from the Text, ere the preacher can get that ſin then reproved, in that caſe it looks ſomewhat like a deſign, and cannot but be feared it may want its due authority. Now a Miniſter may eaſily prevent this, if he ſhall but chooſe thoſe Texts which point, without any violence, againſt ſuch ſins.

Keys of Doctrine & Diſcipline, how they differ.

§ 12. At the Offender's firſt appearance, he is to acknowlege himſelf guilty of the ſin for which he is to be rebuked. Again, he ſhould edifyingly declare his ſorrow for it before abſolution, that the Congregation may the more cordially re-admit him into their communion. But much or oft ſpeaking is to be demanded or allowed, as it may be found moſt edifying: Yet all recantations of errors are always to be made explicitly. A public rebuke ought to be ſo managed, that there be no ground given for conſtructing it a pennance, puniſhment, or mark of reproach, but the Miniſter is to carry therein, as one much affected and afflicted with the ſin, he is to behave authoritatively, having words fitted for edifying the Congregation, and humb-

When neceſſary that Offenders ſhould ſpeak in public, & how a public rebuke is to be given.

another, for any thing that was committed prior to the laſt Preſbyterial Viſitation of the Pariſh; Becauſe then it was the Seaſon, and Hour of Cauſe, to have propaled it, if private methods had not ſucceeded for removing the ſame; and the inſiſting, after ſuch an omiſſion, is rendered moſt ſuſpect, unleſs ſatisfying reaſons be given for it. See § 9. Cap. 7. of the forecited Act of Aſſembly.

TITLE III.

Of Libels Probation, and Citation.

A Libel, what.

§ 1. A LIBEL is a Law Syllogiſm, conſiſting of the propoſition or relevancy, which is founded upon the Laws of God, or ſome eccleſiaſtical conſtitution agreeable thereto, as, whoſoever is abſent from public Divine Service on the Lord's Day, ought to be cenſured. The ſecond part conſiſts of the ſubſumption or probation, which condeſcends on matter of Fact, viz. but ſuch a perſon did, upon ſuch or ſuch a Lord's Day, abſent unneceſſarily from the public Worſhip of God. The third part conſiſts of the concluſion or ſentence, which contains a deſire, that the profaner of the Lord's Day, according to the Laws and Cuſtoms mentioned in the firſt part, may be cenſured.

A Copy of the Libel with a Liſt of witneſſes to be delivered, it moſt condeſcend on Time and Place.

§ 2. By Cap. 2. Sect. 7. Act 11. Aſſembly 1707, the Moderator is to inform the Offender appearing, of the occaſion of his being called, and to give him, if deſired, a ſhort Note thereof in writing, with the Names of the Witneſſes that are to be made uſe of againſt him, that ſo he may be prepared to defend himſelf, which is agreeable to the common principles of Juſtice and Equity. The Libel muſt condeſcend on Time and Place, when and where the Facts and Offences libelled were committed, that ſo the Offender may not be precluded from proving himſelf to have been ALIBI, and ſo impoſſible for him to have done ſuch a deed, or ſo offended at the Time and Place libelled.

What is a Relevant Libel. It is unlawful to be Witneſſes or on the Aſſize of Irrelevant Libels.

§ 3. The Relevancy of the Libel is the juſtneſs of the poſition, whether the matter of Fact ſubſumed be proven or not; and therefore, if the thing offered to probation be obviouſly irrelevant and frivolous, it ought to be rejected and not admitted to proof. For nothing is to be admitted by any Church Judicatory as the ground of a Proceſs for cenſure, but what hath been declared cenſurable by the Word of God, or ſome Act or Univerſal Cuſtom of the Church agreeable thereto, as ſaid is, VIDE Sect. 4. Cap. 1. forecited Act. Albeit one Article of the Libel, PER SE, be not Relevant, yet if three or four Articles CONJUNCTIM be Relevent, the ſame may be admitted to probation. The Relevancy of a Libel is ſo much to be regarded, that, I think, it is unlawful for any to be either Witneſſes or Members of Inqueſt upon irrelevant Libels. What? is not this

to be a "Witneſs againſt thy Neighbour without Cauſe," Prov. xxiv. 28. it was a truth that Abimelech the Prieſt gave hallowed Bread, and the Sword of Goliah to David; yet it was a bloody ſin for Doeg the Edomite, to inform the wicked King againſt the Lord's Prieſt, 1 Sam. xxi. and xxii. It was a Preſbyterian Miniſter's duty to preach the Goſpel under the late perſecution, ſecretly and cautiouſly, to honeſt hearers at their deſire; Yet it would have been a Doeg-like ſin, to have witneſſed the truth in that matter before our then Judges, ſeeing by the 8th Act of Parl. 1685—it was Death for ſuch, even to preach in Houſes. What is here ſaid againſt ſuch witneſs-bearing, ſtrikes with as much force againſt the Members of Inqueſts finding ſuch irrelevant Libels proven, for though it was both true, what the one witneſſed, and the other found, yet I would be affraid, if I were in their caſe, that before God I ſhould be condemned as acceſſory to the ſhedding of innocent Blood. Before the Witneſſes be Judicially examined, the accuſed Party is to be called, and the Relevancy of the Libel diſcuſſed, Sect. 10. Cap. 2. Act foreſaid. But in cauſes intricate and difficult, the diſcuſſing of the Relevancy may be delayed till probation be taken: and then, greater light being thereby given, both Relevancy and probation may be adviſed jointly, as the Lords of Seſſion and Privy Council have oftentimes done.

When the Relevancy is to be diſcuſſed.

§ 4. When the Libel is Read, the defender ſometimes propoſeth a defence, which if admitted and proven, exculpates and clears him from the Fault libelled, either in whole or in part; as, if the Libel be Murder, and the defence INCULPATA TUTELA; or if the Libel be Adultery, at ſuch a time and place, and the defence be ALIBI. But the Party accuſed muſt before probation offer the grounds of exculpation to be proven by Witneſſes; in which caſe the Moderator and Clerk, if required, are to give warrant to cite Witneſſes upon the Parties Charges, the Relevancy of the offered exculpation being firſt ſuſtained by the Judicatory: and if the exculpation be fully proven, all further Proof of the Libel muſt there ſiſt. But if the ſubſtance of the Scandal be once proven, there can be no place for exculpation, unleſs it be as to ſome extenuating circumſtances, not contrary to, but conſiſting with the depoſitions already taken.

Exculpation deſcribed, and when to be granted.

§ 5. Probation is that, whereby the Judge is convinced, that what is aſſerted is true, and he muſt be convinced either by confeſſion or Oath of Party, or Writ, Witneſſes, or Preſumptions as follows. Probation by confeſſion, if judicial, is the ſtrongeſt of all Probation: But if men confeſs a crime, rather from wearineſs of, or averſion to life, than from conſcience of guilt; Or, if there appear any ſigns of diſtraction or madneſs, then ſuch confeſſions ought not to be reſted upon, except they be adminiculate with other Probation. Confeſſions before a Church Judicatory, are not reſted upon before civil Courts, except they

Probation, what & by confeſſion.

be renewed before themselves; and so it is E CONTRA, for men may incline to confess things before Church Judicatories, knowing that Church Discipline is *Medicina, non Pœna*, or *Ob Levamen Conscientiæ*, which ought not to be discouraged; Whereas they may deny the same Fault, and refile before the civil Judge, for fear of corporal punishment.

Oath of Calumny, Verity, and Credulity, What.

§ 6. An Oath of Calumny may be exacted of either party, whereby they swear that they believe or judge, that the points they insist on, are both just and true, and they will be holden as confessed, if they refuse to depone when required. By an Oath of Verity, or for conformation, the Swearer positively affirmeth by his Oath, that what he asserteth is true; and it is the only Oath sworn by a party which can terminate the plea and strife. But by an Oath of Credulity, the Swearer doth not assert the verity of the matter, but the verity of his belief of the matter, which only terminates the plea in so far as to exclude him who sweareth, from insisting on these points contrary to his own belief or persuasion, vide Stair's Instit. page 698—701.

Probation by Oath of Party in stanced; It is not to be pressed.

§ 7. If the delated Father of a Child, after private conferences, do still deny, then the Session is to cause cite him to appear before them: If he persist in his denial, when compearing, he is to be confronted with the Woman, and the presumptions held forth as particularly as possible: and if after all this he deny, though the Woman's Testimony can be no sufficient evidence against him, yet pregnant presumptions, such as, suspicious frequenting her company, or being SOLUS CUM SOLA, IN LOCO SUSPECTO, or in suspect postures, and such like, which he cannot disprove, may so lay the guilt upon him, as to shew him, that there appears no other way of removing the Scandal, but his appearance to be publicly rebuked therefore: If he will not submit himself to be rebuked, it is safer that a true narrative of the case be laid before the Congregation, and intimation given, that there can be no further procedure in the matter, till God in his providence give further light; than that an Oath be pressed, and upon refusal proceed to the higher excommunication. But if the person accused do offer his Oath of Purgation, and crave the privilege thereof, the Presbytery may allow the same, the form whereof may be as follows.

Stile of the Oath of Purgation.

§ 8. I A. B. now under Process before the Presbytery of for the Sin of alledged to be committed by me with C. D. and lying under that heavy slander, being repute as one guilty of that Sin: I, for ending the said Process, and giving satisfaction to all good people, do declare before God, and this that I am innocent and free of the said Sin of or having carnal knowledge of the said C. D. And hereby I call the Great God, the Judge and Avenger of all Falshood, to be Witness and Judge against me in this matter, if I be guilty, and this I do by taking His blessed name in my mouth, and in Swear-

ing by Him who is the great Judge, Puniſher and Avenger as ſaid is, and that in the Sincerity of my Heart, according to the truth of the matter, and my own innocence, as I ſhall anſwer to God in the laſt and great Day, when I ſhall ſtand before Him, to anſwer for all that I have done in the Fleſh, and as I would partake of His glory in heaven, after this life is at an end.

When & where this Oath is to be allowed and taken; and its effects.

§ 9. But this Oath it is not allowed to be taken in any caſe but this, when the preſumptions are ſo great, that they create ſuch jealouſy in that Congregation and Seſſion, that nothing will remove the ſuſpicion but the man's Oath of Purgation; and when his Oath will indeed remove the ſcandal and ſuſpicion; In all other caſes this Oath is in vain, and ſo ſhould not be admitted, and never but by advice of the Preſbytery. It is to be taken, either before the Seſſion, Preſbytery, or Congregation, as the Preſbytery ſhall determine. And if it be taken before the Seſſion or Preſbytery, it is to be intimate to the Congregation, that ſuch a perſon hath taken ſuch an Oath, and the Party may be obliged to be preſent in the Congregation, and may be put publicly to own his purging himſelf by Oath, and thereupon be declared free from the alledged ſcandal. All what concerns this Oath, is recommended by Cap. 4. Sect. 6. &c. of the forecited Act of Aſſembly.

How the Woman is to be cenſured when the fact is not proven againſt the man.

§ 10. After an end is made, as above, with the perſon delated as Father, the woman is to be dealt with to give the true Father; and if after all ſerious dealing and due diligence, ſhe give no other, ſhe is to be cenſured according to the quality of the offence confeſſed by her, without naming the perſon delated; The Judicatory reſerving place for further cenſure, upon further diſcovery.

How a voluntar & malicious confeſſor of uncleanneſs is to be cenſured.

§ 11. If a perſon do voluntarily confeſs uncleanneſs where there is no Child, and the caſe be brought to the Kirk-ſeſſion, they are to enquire whether it floweth from diſquietneſs of mind, or from ſiniſtrous deſign; and when a man ſuing to a Woman for Marriage, is denied, but ſpreads the report that he hath been guilty with her. If it be found that there is no ground for the confeſſion, the perſon confeſſing is to be cenſured as defaming himſelf, and likewiſe as a ſlanderer of the other Party: and withal, application is to be made by the Seſſion to the civil Magiſtrate, that he may be puniſhed according to Law: See that forecited fourth Chapter of the Act of Aſſembly.

Probation by writ.

§ 12. It is rare to prove a ſcandal by writ, but yet it may happen ſo to be proven, and the want of the Writer's name and witneſſes, ought to be no objection in Church Courts againſt writs, more than in bills of exchange. If one denieth that to be his ſubſcription, it is hard to ſuſtain its being proven to be his PER COMPARATIONEM LITERARUM, which is but a preſumption, and men's hands may be ſometimes ſo artificially imi-

tated, that it ſhall be hard to diſcern which is which; beſides, one man's writ may differ from itſelf at ſeveral occaſions.

Probation by preſumptions.

§ 13. Probable preſumptions, and many concurring, may do much to prove, eſpecially in ſuch things which rarely can be proven with ordinary clearneſs. The preſumption of cohabitation, after the Parties are diſcharged, is ſufficient, as may be ſeen on that Title, to infer Adultery: alſo, cohabitation, and behaving as man and wife, for ſome conſiderable time, preſumeth Marriage: and the depoſitions of witneſſes, are ſometimes founded upon preſumptions, as when they depone upon things which depend upon Acts of the Mind, as, ebriety, & DOLUS MALUS. But when a Libel is only proven by preſumptions, it is not ſo ſafe to paſs the ordinary cenſure thereupon, as if it had been proven by unexceptionable witneſs and full probation.

Form of a diligence againſt witneſſes, their Non-compearance to be cenſured.

§ 14. Witneſſes may be cited on fewer days than Parties. The diligence againſt them may run in this Form, viz. Mr. A. B. Moderator, &c. Forasmuch as Purſuer, &c. having applyed to us for a diligence to cite Witneſſes in the ſaid matter, in manner and to the effect underwritten. Therefore we require you, that upon ſight hereof, ye paſs and Lawfully Summond perſonally, or at their Dwelling Places, to compear before us within the Kirk of upon the day of In the Hour of Cauſe with continuation of Days, to bear Leal and Soothfaſt Witneſſing, upon the Points and Articles of the ſaid Proceſs, in ſua far as they know, or ſhall be ſpeared at them, with Certification as Effeirs; And this our Precept you are to Return duely Execute and Indorſate. Given, &c. by Warrant, &c. If Witneſſes refuſe after three Citations to compear, then they may be proceeded againſt as contumacious: or, if judged needful, after the firſt or ſecond Citation is diſobeyed, application ſhould be made to the civil Magiſtrate, that he may oblige them to appear. See that 9th Sect. Cap. 2d, of that frequently above cited Act of Aſſembly.

Objections againſt witneſſes.

§ 15. In Church Judicatories, Women and Minors paſt fourteen years of age, are received Witneſſes. If the defender appear, he may object againſt any of them, and if the objection be relevant, and made evident to the Judicatory, the Witneſſes are to be caſt: For which ſee that ſame Act. The objections of infamy, or enmity, are relevant to caſt any Witneſs: But the deſign of Church Courts being *ad tollendum ſcandalum, & ad eruendam veritatem*, they will ſometimes receive Witneſſes CUM NOTA, againſt whom ſome common and general objections have been made, reſerving to themſelves to conſider how far they will make uſe of their Teſtimony at adviſing the ſufficiency of the probation.

How witneſſes are to be ſworn, examined

§ 16. Witneſſes are to be ſworn thus, lifting and holding up the Right Hand; They ſwear by God, and as they ſhall anſwer to Him, they ſhall tell the Truth, and nothing but the Truth,

concerning the Articles and Points of the preſent Proceſs, in ſo far as they know, or ſhall be aſked. Which Oath the Moderator is judicially to adminiſter, and though there be no relevant objection againſt the Witneſſes, yet they are to be ſolemnly purged of malice, bribe, or good deed, done or to be done, and of partial Counſel, by which ſome underſtand prompting or conſulting for making of the Proceſs. The Witneſſes are to be Sworn and examined in preſence of the accuſed Party, if compearing, and he may deſire the Moderator to propoſe ſuch queſtions, or croſs queſtions, to the Witneſſes, as may tend to his exculpation, which if the Judicatory think pertinent, are to be propoſed. The INITIALIA TESTIMONIORUM, ſuch as, their age, married, or un-married, or SOLUTI, that is, Widows, and the like, are propoſed, that the Deponents Veracity may by theſe be traced. If Witneſſes cannot ſubſcribe their Names to their depoſition, the Clerk is to Mark, that they declare, they cannot Write, and the Moderator is always to ſubſcribe the ſame, whether they can Write or not. If they can but ſubſcribe the Initial Letters of their Names, they ſhould do it, and the Clerk is to Write about their Mark thus (Adam A. B. Bruce his Mark.) and Subſcribe. And the INITIALIA TESTIMONII.

§ 17. A ſingular Witneſs is one that hath no concurring Witneſs. This Singularity is either, OBSTATIVA, which is, in a crime, not reiterable; As if one ſhould depone, that a man was murdered at one place, and another depone he was murdered at another place. Again, there is a SINGULARITAS ADMINICULATIVA, which is, where the Witneſſes do not concur in their depoſitions; Yet they are not contrary, but the one aſſiſts the other, as in the proving that an Horſe was ſtolen, one ſhould depone that he ſaw the Thief go in without a Horſe, and another ſaw him take the Horſe. In the third place, there is a SINGULARITAS DIVERSIFICATIVA, when Witneſſes depone different Acts in a crime, which is reiterable; As if one Witneſs depone upon an Adultery, committed at one time, and another of an Adultery committed at another time. Is that perſon's, being guilty of Adultery ſufficiently proven? Singularity of Witneſſes, what.

§ 18. Of Things Nottour, there are ſome which cannot be proven, and yet are true, as ſuch a Man is another's Son: Other Things can be proven which are FACTI PERMANENTIS, ſuch as, that there is a Palace or Fountain in ſuch a Town, SED NOTORIUM NON INDIGET PROBATIONE. Again, there are Things nottour, which need no Probation, which are FACTI TRANSEUNTIS, as that ſuch a perſon did publicly commit Murder. Albeit Judges cannot be both Judges and Witneſſes, yet, he is a Witneſs and a Judge too of what he ſees and hears in Judgment, for theſe are counted as Nottour, VIDE Stair's INSTIT. page 704. Probation by Notoriety, and if Judges may be Witneſſes.

§ 19. It is repugnant to the Laws of God and Man, to con-

How Parties are duly sisted before a Church Judicatory, & the REQUISITA CITATIONIS.

demn any that is absent or unheard, unless his absence proceed from his own Fraud or Stubbornness: Therefore in order to a due hearing, citations must be given to Parties concerned, in writing, especially if they be called before Presbyteries, and other Superior Judicatories of the Church. See the 2. Cap. of the forecited Act of Assembly. The Citation must bear, 1st, The Judicatory before which the person cited is to appear. 2dly, The Name of the Pursuer, (if the Party be not cited by order of the Judicatory.). 3dly, The Name of the Defender. 4thly, The Cause for which the person is cited. 5thly, The Place where compearance must be made. And lastly, the Time when they must compear. And this is to be observed, that all Parties and Witnesses cited before Church Courts, are to be designed in these Citations, as they are or may be commonly in all other Writs. If they be residing within the Parish, they may be cited upon fourty eight hours Advertisement.

Parties out of the Country how cited

§ 20. It hath sometimes been practised, to cite Parties even when out of the Country, a particular instance whereof is, the commission of Assembly 1644, caused cite some Scots, then about Oxford in England, (for emitting a Malignant Declaration) at the Market-cross of Edinburgh, Peer and Shoar of Leith, to appear before the then next ensuing General Assembly, upon sixty days warning, counting from the day of the Citation.

Parties in another Parish how cited.

§ 21. If the persons be charged with Scandal, who live within the Bounds of another Parish, the Kirk-session of that Parish where that person resides, should be desired to cause cite them to answer before the Session in whose Bounds the Scandal happened, and the same course is to be followed in such cases by the other Judicatories of the Church.

Citations dilatory and peremptory how to proceed with those who disobey or abscond.

§ 22. Citations are called dilatory for the first and second, that the Party may appear; and the third, or one given APUD ACTA, is called peremptory, wherein the Judicatory certifies the person cited, that they will proceed to the cognition of the cause, though he appear not, or that they will proceed against him as contumacious. If the person do not compear upon this peremptory Citation and no relevant excuse therefore be proposed and sustained, the Judicatory is to proceed to take cognition, either by examining of Witnesses, or by other documents, for the verity of the Scandal, and that before they censure him for contumacy. See Cap. 2. Sect. 6. of the forecited Act. If any under Process for Scandal, abscond, they should be cited first from the Pulpit of the Parish where the Process depends, and where they reside, and if they do not thereupon appear, they are next, by order of the Presbytery to be cited from the Pulpits of all the Kirks within their Bounds, to compear before them, and if they do not then appear, they are to be declared Fugitives from Church Discipline in all the Kirks within

that bounds, desiring that if any know of the said Fugitives, they may give notice thereof, and the Presbytery is to sist there until they get some further account of these persons. See § 18. of the forecited Chap. and Act. This Citation is commonly called Edictal, and likewise takes place when the person to be cited takes methods to hinder a copy to be given in the usual way, or, when it is dangerous for the Officer to travel to that place.

Stile of a Summons, and of the Copy and execution thereof, & of caution to appear.

§ 23. Sometimes the Warrant for Citing bears the Libel, and then a full Copy thereof is given, but sometimes it bears not the Libel, and then the Defender is cited to hear and see the informations against him, and must, when appearing, be treated as in § 2. Huj. Tit. The Form of which Summons may run thus: "Mr. A. B. Minister and remanent Members "of the Church Session of To our Officer, "We require you, that upon sight hereof, ye pass and lawfully Summons personally, or at his dwelling-"house, to compear before the said Session, within the Session-"house at the Day of next to come, in the "Hour of Cause, to answer to the Information or Libel a-"gainst him, for the Sin and Scandal of laid to his "Charge; with Certification, &c. Given at the "Day of by Warrant of the said Session, A. B. "Sess. Clk." Beside the general Certification of the Church Censures, which is the method Ecclesiastic Courts do take, to procure obedience to their orders; there are some proper Certifications, as in Transportation of Ministers, and their Edicts of Ordination and Admission, of which already in Book 1. Now the Copy of a Summons may run thus:—"I Church "Officer of by virtue of an order directed from them "lawfully Summons you to compear, &c. With "Certification, &c. conform to the principal Warrant, dated at "the Day of ; This by War-"rant of the said Session I give, before these Witnesses, &c. "A. B. Officer." He is to return the Summons Execute in these Terms,—viz. "Upon the Day of I "Church-Officer of past at the command of the within "written order directed from the Church-Session of , "and by virtue thereof lawfully Summoned the within menti-"oned , personally apprehended, and delivered to him "a true Copy of the said Warrant, to compear before the said "Session, Day and Place within specified, to answer for the "Sin and Scandal of laid to his charge, and made "certification as is within expreft. This I did conform to the "within written Warrant in all points; Before these Witnesses, "A. B. &c. And for the more verification hereof, we have "subscribed thir presents at , the Day of, &c." The Execution must bear, that either Citation was given to the

party personally, as above, or left at his dwelling-house, with his wife, children, or servants, if the Officer get entry, or by affixing a Copy on the door, after knocking several times, if he get not entry. If any man bind as Cautioner for another that he shall underly the Discipline of the Church, under a pecunial pain for the use of the Poor, he should bind to the Magistrate, and not to the Church.

All defenders must appear personally, even tho' Minors, and how Societies appear.

§ 24. When Minors are conveened before Churth Judicatories, their Curators are not to be cited as before civil courts, tho' they may be acquainted therewith, that their Pupils may receive suitable advice and instruction from them. A Minor that is a male past fourteen, and a female past twelve years of age, may be called before the Church Judicatories, when guilty, as for Pupils under that age, it will be rare if ever they be concerned as Delinquents, except UBI MALITIA SUPPLET ÆTATEM, that is, where strength of nature is as far advanced in them as it useth to be in others of riper years. The conclusion of all Church Process, being against the Defenders themselves, none can appear for them: nay, Advocates are not so much as allowed to plead for compearing parties, otherwise pleas would probably be more frequent and tedious too; and the truth hath been many times expiscate by the countenance, behaviour, or expressions of parties themselves, which would have been concealed by Advocates. In the M. S. Acts of Assembly at Edinburgh, 1575, they refuse to allow Advocates to plead before them in a process of dilapidation, against the Bishop of Dunkelden, but ordains him to answer himself, and if he think fit may choose any Minister to reason for him. When incorporations are cited, it is necessary they be allowed to answer by some commissioned from their body, who must be members of that society, or reside therein: if a burgh royal were cited, they would not be allowed to appear by him who resides not among them, but only is one of their honorary burgesses: and no party sustains great loss hereby, seeing they may advise with whom they please in drawing of answers, and the like.

TITLE IV.

Of the vocational and personal Faults of Ministers and Probationers, how they are Censured, and of the method of proceeding to Censure, and of Reponing them against these Censures.

Non residence what and how censured, who are deserters, and

§ 1. BY the 132. Cap. Parl. 8. Jac. 6. non-residence is declared to be, when a Minister resides not within the Parish, but is absent therefrom, and from his Kirk, and using of his office, for the space of four Sabbath days in the year, without a lawful cause allowed by the Presbytery; which non-

residence is deprivation. By parity of reason the same pain may be applied against Principals and Masters of Universities, who attend not upon their charges. The Ministry is said to be MILITIA SPIRITUALIS, they are watch-men fixed by their superiors as sentinels at such posts, which if they desert without warrant, all the order of the spiritual discipline is overturned. Agreeable hereunto, is the Act of Assembly, 1596, ratified by Assembly, 1638, whereby it is appointed, That Ministers not Resident with their Flocks be Deposed, according to the Acts of the General Assembly, and Laws of this Realm, otherwise the burden is to lie on the Presbytery, and they to be censured for the same. And by the 5th Article of the same Act, it is appointed conform to the old Acts of Assemblies therein mentioned, that Ministers Reside in their own Parishes, or at their ordinary Manses. By the 4th chapter of the Policy of the Kirk, they who are once called of God, and duly elected by man, and have once accepted the charge of the Ministry, may not leave their functions, otherwise the Deserters are to be admonished, and in case of obstinacy, excommunicated. And by the M. S. Acts of Assembly at Edinburgh, 1570, it is appointed, that Ministers at their public instalment, shall promise solemnly never to leave their Ministry at any time thereafter, under the pain of infamy and perjury. Conform hereunto, in the 1. chap. Article 14. of the French Church Discipline, Ministers with their Families, must actually Reside in their Parishes, under pain of Deposition; and by the 23d Article, Deserters of the Ministry shall be excommunicated, if they do not repent, and re-assume the Office God hath committed unto them. By the Assembly 1690, Sess. 15. albeit Ministers have received their Ordination from Foreign Churches, yet if they have a standing relation to any charge in this Church, they are not to remove out of the Kingdom, without consent of the respective Judicatories of this Church, otherwise they may be treated as Deserters, vid. Ordination Engagements, Lib. 1. If persecution be particular against one Minister, in that case, it is generally thought, he may warrantably flee, without being esteemed a Deserter: but it will scarcely defend against Desertion, when the persecution becomes general. A Minister seems to be particularly tied to wait upon his charge in the time of a public calamity: and therefore, the Commission, 16th May, 1645, found that Mr. Mungo Law, Minister at Edinburgh, could not be spared from his charge, to attend the General's Regiment, in respect of the fear of the infection in the city.

how censured, and defences against the same.

§ 2. Supine Negligence is, an habitual or customary neglect of some one or other of the pastoral duties, but every escape cannot infer it, the pastoal office being in some sense a burden too heavey for the shoulders of Angels. By our Law, Supine Negligence is relevant to infer Deposition, even as error, scandal,

Supine Negligence what, and how Censured.

ignorance and contumacy are, see the Act of Parl. 1690, settling the Church Government: and by the forecited Act of Assem. 1596, it is appointed, That such Ministers as be slothful in the ministration of the Sacrament of the Lord's Supper, be sharply rebuked, and if they continue therein, they shall be Deposed. And by the Act of Assembly, June 13th, 1646, among the enormities and corruptions of the ministeral calling, the following is mentioned, viz. idleness, that is, seldom preaching, as once on the Lord's Day, or in preparation for public duties, not being given to reading and meditation, but only now and then, not like other tradesmen, continually at their work.

Dilapidation what, and how Censurable

§ 3. Dilapidation of Benefice is, the Deed of any Churchman, whereby his rents are wasted, diminished, or altered to the worse from what they were. And the punishment is, disannulling of the Deed, and deprivation to the Granter, Jac. 6. Parl. 7. Cap. 101. By that forecited Act of Assem. 1596, it is declared, that Dilapidation of Benefices, demitting of them for favour or money, without advice of the Kirk; interchanging of Benefices, by transaction, or transporting of themselves by that occasion, without advice of the Kirk, are precisely to be punished. Such like, setting of tacks without consent of the Assembly, is to be punished as Dilapidation.

Simony what; and how proven and punished.

§ 4. Simony is the buying or selling of any spiritual thing, or of what is annexed thereto. The Canonists describe it to be, *Studiosa voluntas, seu cupiditas emendi vel vendendi spiritualia, vel spiritualibus annexa* Thus Simony may be committed by making advantage of administrating the Sacraments: By Jac. 6. Parl. 21. Act 1. any condition made by the Intrant with the Patron, reserving to himself a sufficient maintenance, answerable to the state of the Benefice, is declared not to be Simony. In this crime, witnesses who are not very HABILE, or OMNI EXCEPTIONE MAJORES, such as whores and infamous persons, may be admitted, and it may be proven by presumption or oath of party, according to the opinion of some Lawyers, and all because it is ordinarily carried on with much privacy and clandestine dealing.

Ambitus what, and how Censured.

AMBITUS is CRIMEN MERE ECCLESIASTICUM, and not usually punished by Laicks. By the forecited Act of Assembly, 1596, it is provided, that none seek Presentations to Benefices, without advice of the Presbytery, and if any do in the contrary, they are to be repelled as REI AMBITUS. They further appoint that it be enquired, if any by solicitation or interest, directly or indirectly, press to enter into the Ministry; and if it be found, the person so soliciting, is to be repelled; these three crimes, Dilapidation, Simony, and Ambitus, do often meet in one and the same person, and the crime is denominate from that which most predomines in it.

§ 5. By the 23d Act of Assembly, 1696, it is recommended to all Synods and Presbyteries, that they advert to the ma-

ny irregularities committed by vagrant unfixed Miniſters: and Preſbyteries, where any difficulties occur, are to conſult their Synods before they proceed to cenſure. By the 27th Act of that Aſſembly, they ſuſpend one from the exerciſe of his Miniſtery, becauſe he exerciſed it in a vagrant diſorderly way. And by the 18th Act of Aſſembly 1701, Preſbyteries are appointed to ſend in to the commiſſion an account of ſuch Miniſters, or Preachers, as intrude into Pariſhes, that application may be made to the government for removing them, that the Kirks intruded into may be orderly planted. Aſſembly 1694. Seſſ. 14. the Queen by Her Proclamation dated at Windſor, September 20th, 1708, in purſuance of ſeveral Acts of Parliament made in favours of the preſent Church eſtabliſhment, particularly the Act 1695, againſt Intruders, doth require and command, all ſuch as have intruded upon Churches or Manſes, to remove therefrom, and all Magiſtrates and Judges within their reſpective Juriſdictions, are to ſee the ſame executed, by decerning accordingly, and procuring letters of horning and caption thereupon to be direct IN COMMUNI FORMA. By the Diſcipline of the French Church, Cap. 1. Art. 26. the Miniſter that ſhall Intrude himſelf, although he were approved by the people, is not to be approved by the Neighbouring Miniſters or others, but notice muſt be given to the Colloquy thereof, or Provincial Synod. And by the 55th Article of that Chapter, the Names of vagrant Miniſters are to be proclaimed through all the Churches.

Intruders & Vagrant Miniſters who, & how cenſured.

6. By the foreſaid Act of Aſſembly 1596, ratified 1638, it is Enacted, that ſuch Miniſters as ſhall be found not given to their Books and ſtudy of the Scripture, not given to Sanctification and Prayer, that ſtudies not to be Powerful and Spiritual, not applying the Doctrines againſt corruptions, which is the paſtoral Work, obſcure and too Scholaſtic before the People, cold and wanting in ſpiritual Zeal, negligent in viſiting the Sick, or caring for the Poor, or indiſcreet in chooſing parts of the word not meeteſt for the Flock, flatterers and diſſembling of public Sins, and eſpecially of great Perſonages in their Congregations; All ſuch Miniſters are to be cenſured according to the degree of their Fault, and continuing therein are to be deprived. ITEM, ſuch as be ſlothful in the Miniſtration of the Sacraments, and irreverent, or profaners thereof, by admitting the ignorant or profane thereto, and omitting the due Trial of ſuch as are to be admitted, or uſing but light Trial, or having reſpect in their Trial to perſons. All ſuch Miniſters are to be ſharply rebuked, and if they continue therein, are to be depoſed. ITEM, but if any Miniſter be found a Seller of the Sacraments, he is to be depoſed Simpliciter: and ſuch as collude with ſcandalous Perſons, by overlooking them for money, do incur the like pun-

Vocational Faults of Miniſters; How cenſured.

iſtment. ITEM, all Miniſters, who neglect the due exerciſe of Diſcipline, and continue therein after admonition, are to be depoſed.

Perſonal Faults of Miniſters; How Cenſured.

§ 7. By the forecited Act 1596, it is appointed, that ſuch Miniſters as are light and wanton in their behaviour, as in gorgeous and light apperal, or in ſpeech, or in uſing light and profane company, or that are guilty of dancing, carding, dicing, and the like, if they continue therein after due admonition, ſhall be depoſed as ſcandalous to the Goſpel; And agreeable hereto, is the 54. *Canon* Concilii Laodiceni, *Quod non oportet ſacratos, vel Clericos in nuptiis vel Conviviis aliqua ſpectacula contemplari, ſed priuſquam Ingrediantur Thymelici, ſurgere & ſecedere debeant* ITEM, Miniſters found to be Swearers or Banners, Profaners of the Sabbath, Drunkards or Fighters, are to be depoſed Simpliciter. By the 27th and 42d of theſe *Canons*, called Apoſtolical, *Epiſcopum, vel Preſbyterum, vel Diaconum verberantem fideles peccantes, aut Infideles injuriam facientes, ac per hoc timeri volentem, ab officio Deponi Mandamus.* And by the other *Canon, Epiſcopus, Preſbyter, aut Diaconus, alea vacans, aut Ebrietatibus, vel Deſiſtat, vel Gradu ſuo dejiciatur.* ITEM, Miniſters that are detractors, flatterers, breakers of promiſe, lyars, brawlers, and quarrelers, after admonition, if they continue therein, they are to be depoſed. By the 53 *Canon* called Apoſtolical, *Si quis Clericus in Caupona comedens deprehenſus fuerit a Communionis ſodalitate ſecernatur, præter eum qui vitæ neceſſitate divertit in hoſpitium.* And by the 55. *Canon* Concilii Laodiceni, *Quod non oportet Sacratos vel Clericos, ex collatione conviva peragere, ſed neque Laicos.* And by the 43 *Canon*, Concil. Carthaginen. *Ne in Caupona verſentur Clerici, niſi hoſpitio accepti. Ut Clerici comedendi, vel bibendi gratia, non ingrediantur, niſi hoſpitii neceſſitate compulſi.* By our Law, (VID. TIT. 13. LIB. 3.) the haunting of Taverns at unſeaſonable hours therein condeſcended upon, is equally puniſhable with Drunkenneſs. So that a Miniſter's drinking temperately in change-houſes, though with good company (but at forbidden hours) will not defend him againſt the puniſhment of Drunkneſs. ITEM, Miniſters are not to take Uſury, and if they continue therein, they are to be deprived. By the 44. of theſe Canons called *Apoſtolical, Epiſcopus, aut Presbyter, aut Diaconus, Uſuras exigens a Debitoribus. vel deſiſtat, vel ordine mulctatur.* ITEM, Miniſters given to unlawful trades and occupations, for filthy gain, ſuch as, keeping of Inns, bearing of worldly offices in Noblemen and Gentlemen's houſes, Merchandiſe, and ſuch like, buying of Victual, and keeping it to the dearth, and all ſuch worldly occupations, as may diſtract them from their Charge: all ſuch are to be admoniſhed, and if they con-

tinue therein, are to be deposed. By the 6. of these Apostolical Canons, *Episcopus, aut Presbyter, aut Diaconus seculares curas non adsumat, alioqui deponatur.* And by the 20th Canon, *Clericus se fideijussionibus implicans gradu suo dejiciatur.* *Calderwood*, in his History, page 438, acquaints us, that by Acts of Assembly Ministers are prohibit to join with their Ministery, the Office of a Notary, Husbandry, or Hostilary, &c. under the pain of deposition. In the M. S. Acts of Assembly, 1572, the Regent desiring some learned Ministers to be planted Senators of the College of Justice, the Assembly finds that none were able to bear both the said charges. The Assembly 1643, (in the Index of their unprinted Acts you may find some of it) considering that Mr. William Bennet, Minister at Ancrum, did vote in the election of a Commissioner to the convention of estates from the Shire of Roxburgh, as one of the barons and free-holders there, they do recommend it to him to abstain from civil courts and meetings. As also, they understanding, that Mr. Andrew Murray, Minister at Ebde, had come to succeed to be Lord Balvaird, they appoint him to exercise his calling of the Ministery, and to reject such temporal honours during his own life, as being incompatible with that calling, and very good reason that the lesser and least useful should cede to the greater and better work. ITEM, by that forecited Act Assembly 1596, ratified by the Assembly 1638, all their members are discharged from attending the court, and affairs thereof, without the advice and allowance of their Presbytery: and that they intent no civil action without the said advice, except in small matters. Calderwood in his History of Assembly 1600, saith to this purpose, *Qui ambulat in sole coloratur, qui tangit picem inquinatur, qui frequentat Aulam & Curiam profanatur; Forum pontificis* Petrum *ad abnegationem Christi egit quæ est corporum constitutio, ea est & morum. Circumposito aere calido calescimus, et rursus frigido frigescimus. Cum sanctis sanctus eris cum perversis perverteris.* ITEM, Ministers are to use godly exercises in their Families, such as, Teaching of their Wives, Children and Servants, in ordering Prayers, Reading of the Scriptures, and such like other points of godly conversation: whoever be found negligent therein, after due admonition, are to be deposed. ITEM, Ministers that are not spiritual, and profitable in their ordinary converse, are, upon due Trial, to be sharply rebuked. ITEM, no Minister is to countenance or assist a public Offender, challenged by his own Minister for his public Offence, or to bear with him, as if his own Minister were too severe upon him, under pain of admonition and rebuke.

§ 8. The General Assembly by their Act June 13th, 1646, provide the following remedies, against the evils both in the calling and lives of Ministers, and appoints them to be observed. Remedies against Vocational &

Perſonal Faults of Miniſters.

IMPRIMIS, none are to be taken in to be a helper or ſecond Miniſter, but ſuch as are able for the ſame charge. ITEM, that Preſbyteries be faithful in the Trial of Intrants, and in loving admonitions one of another ſecretly, and that abſents from Synods and Preſbyteries be cenſured. ITEM, the Moderators of Preſbyteries, are to ſee that godly conference be entertained at Preſbyterial meetings, even in time of their refreſhments. ITEM, Miniſters are to have more frequent converſe among themſelves, for ſtrengthening one anothers hands, and begetting and cheriſhing of friendſhip, and removing of miſ-conſtructions. ITEM, Miniſters are to cheriſh weak beginnings in the ways of God, and courageouſly oppoſe all Revilers and Mockers of the godly. ITEM, ſilence or ambiguous ſpeaking in the public cauſe, and not ſpeaking againſt the corruptions of the time, are to be ſeaſonably cenſured; and ſuch as mock, upbraid, or threaten, ſtop or diſturb Miniſters for freedom in preaching, and the faithful diſcharge of their conſcience, are to be proceſſed, VIDE Aſſembly 1648. Seſſ. 26.

What warrants a Preſbytery to enter in proceſs againſt a Miniſter; And how accuſers are to be admitted.

§ 9. A Preſbytery is not to proceed to the citation of a Miniſter, or any way begin the Proceſs, until there be firſt ſome perſon, who under his hand gives in the complaint, with ſome account of its probability, and undertakes to make out the libel, at leaſt under pain of being cenſured as a ſlanderer. This informer or accuſer ought to be of good report; for it were of dangerous conſequence to admit every body to accuſe. By the 21. Canon, *Concilii Chalced. Clericos vel Laicos, Epiſcopos aut Laicos Accusantes non indiſcriminatim, nec citra Inquiſitionem, admittere ad Accuſationem, niſi eorum exiſtimatio prius examinata fuerit.* Yet Preſbyteries may proceed againſt Miniſters, when a *Fama Clamoſa* of the ſcandal is ſo great, that for their own vindication, they find themſelves obliged to begin the Proceſs without any particular accuſer, after they have enquired into the riſe, occaſion, broachers and grounds of the ſaid common fame.

The manner of citing Miniſters.

§ 10. After the Preſbytery has conſidered the Libel raiſed againſt the Miniſter, then they order him to be cited to get a full Copy, with a Liſt of the Witneſſes Names to be led for proving thereof, and a formal citation is to be made in Writ, either perſonally or at his dwelling-houſe, bearing a competent time allowed to give in anſwers unto the Libel, and his juſt defences and objections againſt Witneſſes, at leaſt ten free Days before the day of compearance, and the citation ſhould bear the date when given, and the names of the witneſſes to the giving thereof, and the execution bearing its date, with the names and deſignations of the witneſſes, ſhould be made in writ and ſigned by the Officer and Witneſſes: which being accordingly returned, he is to be called. As to the form and manner of Citations, it is not to be underſtood as a privilege reſtricted to Mi-

niſters only, but is to be extended to all who are convened before Church Judicatories, with little difference, as has been obſerved on Tit. Citations.

§ 11. If the Miniſter compear, the Libel is to be read unto him, and his anſwers thereunto are to be read, in order to the diſcuſſing of the relevancy. If the Libel be found relevant, then the Preſbytery is to endeavour to bring him to a confeſſion: If the matter confeſſed be of a ſcandalous Nature, ſuch as uncleanneſs, or the like, the Preſbytery, whatever be the nature of his penitence, are Instanter to depoſe him ab officio, and to appoint him in due time to appear before the Congregation where the ſcandal was given, and in his own Pariſh, for removing the offence, by the public profeſſion of his repentance. How to behave towards a Miniſter compearing and confeſſing.

§ 12. If a Miniſter abſent himſelf by leaving the place, and be contumacious, without making any relevant excuſe, after a new public Citation, and intimation made at his own Church, when the Congregation is met, he is to be holden as confeſt, and to be depoſed and cenſured Instanter with the leſſer excommunication; But if after ſome time he do not ſubject himſelf to the cenſures of the Church, he may be proceeded againſt till he be cenſured with the greater excommunication. How towards one abſenting or contumacious.

§ 13. If the Miniſter accuſed do appear, and deny the fact, after the relevancy is found, the accuſed is to be heard object againſt the Witneſſes, and allowed to be preſent at the examination, and modeſtly to croſs-interrogate. If after conſideration of the reputation, hability, and depoſitions of the Witneſſes, the Judicatory ſhall find the ſcandal ſufficiently proven, they are to proceed to cenſure, as in the caſe of confeſſion. How towards him who compears, and denies, but againſt whom the Libel is proven.

§ 14. If the Errors be not groſs, and ſtriking at the vitals of Religion, or if they be not pertinaciouſly ſtuck unto, or induſtriouſly ſpread, with a viſible deſign to corrupt, or that the Errors are not ſpreading among the people, then lenitives, admonitions, inſtructions, and frequent conferences are to be tried in order to reclaim. And unleſs the thing be doing much hurt, ſo as it admits of no delay, the Synod or General Aſſembly are to be adviſed with, and the reference intimated to the Miniſter concerned, which is agreeable to the 12. Act of Aſſembly 1694. And by that Act all the Judicatories of the Church are forbidden to cenſure any Miniſter whatſoever for not qualifying themſelves in the terms of the Act of Parliament, by taking the Oaths to the civil Government. It is true, that appointment continues only till the next Aſſembly; But the ſame reaſon for making that temporary, may make it a perpetual Act. How to carry towards a Miniſter charged with errors

§ 15. If the Libel againſt a Miniſter be for a multitude of ſmaller things laid together, the Preſbytery in proceeding therein are to make a Preſbyterial Viſitation of that Miniſters Pariſh. And if they find theſe things, laid to his charge, to have been committed ſince the laſt Viſitation, or find a ſatisfying reaſon How to carry towards a Miniſter charged with a mul-

" ed interrogate thereupon. That, &c." here narrate the particular things proven, "as the Depoſitions of the ſaid Witneſſes " extant in Proceſs, bear. And therefore the ſaid Preſbytery " did by their vote, Depoſe the ſaid . Likeas " they hereby do, in the Name of the Lord Jeſus Chriſt, the " alone King and Head of the Church, and by virtue of the " Power and Authority committed by Him unto them, actu- " ally Depoſe the ſaid from the Office of the Ho- " ly Miniſtry, prohibiting and diſcharging him to exerciſe the " ſame, or any part thereof in all time coming, under the " pain of the higheſt Cenſures of the Church. Extracted, &c." The Sentence of Suſpenſion runs in this form, "They do Suſ- " pend the ſaid from the exerciſe of his Miniſtry till a " definite time, prohibiting him to exerciſe the ſame during " the ſaid ſpace, till he be orderly reponed thereto, under the " pain of Depoſition." The Aſſembly, Aug. 5th, 1648, conſidering that according to the ancient order and practice of this Kirk, the Cenſures of ſuſpenſion and depoſition are both AB OFFICIO & BENEFICIO, therefore they diſcharge depoſed or ſuſpended Miniſters, to exerciſe any part of the Miniſterial calling, or intromet with the Stipend, under pain of Excommunication to the depoſed Miniſter, and of depoſition to the ſuſpended. See alſo Act of Aſſembly December 18th, 1638. Seſſ 14.

No depoſed or ſuſpended Miniſter is to intromet with the Benefice.

§ 20. By the 3d Article of the 10th Act of Aſſembly 1694, if Probationers Malverſe in Doctrine or Converſation, they ſhall be accountable to and cenſurable by Preſbyteries. And if they refuſe ſubjection or prove contumacious to ſuch cenſures, whether of ſuſpending or re-calling their licence, intimation thereof ſhall be made to the Church Judicatories where they reſide or haunt, that ſo none may employ them to preach.

For what Probationers are to be cenſured.

§ 21. By the Act of Aſſembly Auguſt 2d, 1641, Miniſters depoſed for the public cauſe of reformation, and tranſgreſſing the order of this Kirk, ſhall not be ſuddenly received again to the Miniſtry, till they firſt evidence their repentance both before their Preſbytery and Synod, and thereafter the ſamen be reported to the General Aſſembly. The Aſſembly Auguſt 12th, 1643, conſidering that Sentences of ſuperior Judicatories ſhould ſtand effectual, till they be taken away by themſelves, therefore Synods are diſcharged to Repone Miniſters depoſed by Aſſemblies, and Preſbyteries from Reponing any Miniſter depoſed by either.

When the Aſſembly only can repone, and what Judicatories can repone.

By Act of Aſſembly February 13th, 1645, it is ordained, that no Miniſter depoſed ſhall be reſtored again unto that place where formerly he ſerved, as being a thing perjudicial to the Congregation, and derogatory to the weight of that Sentance of Depoſition, and it being almoſt impoſſible that ever he can prove uſeful in that Pariſh again. See the Form of Proceſs on this Head, Aſſembly 1707. By Act of Aſſembly Auguſt 12th, 1648, it is Enacted, that no Miniſter depoſed for being an enemy

He cannot be reſtored to his former Pariſh, nor yet to that of an other depoſed for the ſame fault.

to the government of this Church, when it ſhall fall out, that he be put in a capacity of re-admiſſion to the Miniſtry, ſhall enter into the Congregation of any other Miniſter, who alſo hath been depoſed for that ſame Fault. By the 53. Article of the French Church Diſcipline, Miniſters who have been depoſed for Crimes which deſerve ſignal puniſhment, or that bear marks of infamy, cannot be reſtored to their Office, what acknowledgment ſoever they make. And as for other leſs Faults, after due acknowledgement made, they may be reſtored by the national Synod, to ſerve in another Church, and not otherways, which agrees with theſe Acts of our Aſſemblies juſt now cited.

Miniſters depoſed for horrid Crimes not to be reponed.

§ 22. By the 31ſt Act of Aſſembly, 1690, all Sentences paſt againſt any Miniſter, HINC INDE, by any Church Judicatory, upon the account of the late differences among Preſbyterians, from the year 1650, until the re-interduction of Prelacy, are declared to be of themſelves void and null, to all effects and intents.

How a great many Miniſters were reponed againſt Sentences paſt during the late diviſions.

TITLE V.

Of Sentences and their Reviews,—of Declinatures,—References and Appeals.

§ 1. JUDICIAL Sentences are either Interloquitors, that is a Sentence intermediate between the Dependence and Termination of the Proceſſes; or they are Definitive, that is, they terminate Proceſſes. And theſe are either Abſolvitures, whereby the Defender is freed and aſſoilzed from the concluſion of the Libel or Proceſs, or they are condemnatory, whereby the concluſion of the Proceſs is found juſt and true againſt the Defender. Or they are mixed, whereby the Defender is abſolved from ſome part of the concluſion of the Proceſs, and is condemned in other parts thereof.

Several kinds of Sentences.

§ 2. The Moderator of no Judicatory ought to give forth their Sentence, until the ſame be firſt put in writing, and then he is to order the Clerk to read it in preſence of all parties. Thus no Judicatory can be in the leaſt wronged by any Clerk's unfaithfulneſs or omiſſion.

Sentences muſt be written before they be pronounced

§ 3. When it is doubtful what Sentence ſhould be paſt, it is the ſafeſt ſide and the leaſt error, either to drop the Proceſs for the time, or elſe to abſolve the Defender, conform to that maxim in law, *Satius eſt impunitum relinqui facinus nocentis, quam innocentem damnare*, L. 5. D *de pœn.* for in abſolving the guilty there is but one omiſſion, whereas in condemning the innocent there is committing of iniquity and injuſtice.

In doubtful caſes it is ſafe to abſolve.

§ 4. Before a Judicatory can think to paſs a Sentence, parties being firſt fully heard muſt cloſe what they have to ſay, and after they have concluded their Defences and Anſwers, then the

Concluſion of the Cauſes.

Judicatory begins to advise what Sentence to pronounce; and seeing the Pursuer speaks first by his Libel, the Defender is allowed to be the last Speaker.

Some sins not to be tried publicly.

§ 5. When faults are singular and monstruous, it is the laudable practice of Judges, to order the Punishment and Trial of such Crimes in private; I am sure, to acquaint the people of some unnatural sins, whereof they had never heard, were but a scandalous and pernicious instruction. See the 51st Art. 1. cap. and 10th and 11th Art. of the 5th cap. of the French Church Discipline.

Nullity of Sentences.

§ 6. Sentences are in themselves null, when pronounced against the General Acts of the Church, or by an incompetent Judge, such as the Sentences of Kirk-sessions against Ministers, or even by Presbyteries and Synods, when the Process is carried and admitted before their superior Judicatories.

The Nature use and End of Reviews, and who can review.

§ 7. When the Party neglects to use the ordinary remedy of appeal, he is allowed (where the Sentence is palpably grav-aminous) to pursue a Review thereof before a superior Judicatory. They are like reductions, and ought to be so libelled, calling the Parties and Judge to produce what is craved, to be reviewed. They are not much in use with us, and if they were, some self-willed and litigious persons would take too much encouragement from it. Assemblies, from which there lies no appeal, may Review or recal their own Sentences, on some new or extraordinary discovery. But inferior Judicatories from which Parties may appeal, are not to determine, but to refer the desired Review or reduction to their superior Judicatory. If a Party shall omit to propone a competent and proper defence, with a fraudulent and vexatious intention to protract and resume debates, in that case he ought not to be heard in his making thereof out of due time and order. But to hear emergent and new discovered defences since the conclusion of the cause, is but just.

The Magistrate is to interpose his authority for getting obedience to Church censures.

§ 8. In the latter part of the 23d Act Parl. 1693, it is statute, that the Lords of their Majesties Privy Council, and all other Magistrates, Judges and Officers of Justice, give all due assistance, for making the Sentences and censures of the Church, and Judicatories thereof to be obeyed, or otherways effectual as accords.

Difference between References & Appeals; When warrantably made, and when not.

§ 9. Declinatures are *ante latam sententiam definitivam*: But Appeals are made from and after that Sentence. These Declinatures are of two sorts, the first Unwarrantable, when a Judicatory is declined, as having no Authority, as if a Minister should decline his own Presbytery, or the other superior Judicatories of the Church to be his lawful Judges, which is a higher degree of contumacy, than that which follows upon Non-compearance, and may be warrantably censured with deposition by the 5th Act of Parliament 1690. There is a warrantable

Declinature, when a Judicatory is declined as having committed injuſtice in ſome Interlocutor-ſentence. There is likewiſe a warrantable Declinature, which may be made againſt particular Members, who are related to the Party by conſanguinity or affinity, nearer than a couſin-german, or who have behaved themſelves as Parties in the cauſe. It is juſt now ſaid, that appeals are properly made from Definitive-ſentences, but they are likewiſe made from Interlocutory-ſentences, when they contain ſuch damage to the Party, whereof no reparation can be expected, from the definitive Sentence that is to enſue. Thus Paul's Appeal was juſt, Acts xxv. 9. for albeit his accuſers could not prove their Libel againſt him, yet his Judge did not abſolve him, but partially and unjuſtly remitted him to the Judgment of his falſe and malicious accuſers.

What an Appeal is; its end.

§ 10. *Appellatio* is by Lawyers ſaid to be *Iniquitatis ſententiæ querela, a minore Judice ad ſuperiorem provocans*; The deſign of Appeals is to redreſs wrongs done by the iniquity, unſkilfulneſs, or precipitancy of Judges.

The effect of an appeal and how it ſiſts execution.

§ 11. As to the effect of Appeals, *non ſortiuntur Effectum ſuſpenſivum ſed devolutivum tantum*, and conſequently reſolve only in the nature of proteſts for remeed of Law againſt a Sentence pronounced by the Lords of Seſſion, and not in the nature of ſuſpenſions. By the laſt Article Cap. 5. Act 11. Aſſembly 1707, an Appeal being made by Parties, ſhould ſiſt the execution of the Sentence appealed from, only while the Appeal is duely and diligently proſecute, and may thereby be determined, otherwiſe not; unleſs the Judicatory appealed to, receive the Appeal, and take the affair before them: and in that caſe the Judicatory appealed from, is to ſiſt till the Appeal be diſcuſſed.

The manner of making appeals, & to whom made.

§ 12. By the Act of Aſſembly, Auguſt 30th, 1639, appellations are diſcharged to be made by leaping over either Preſbytery or Synod, except it be after the Synod is paſt, and immediately before or in the time of the ſitting of the General Aſſembly. The Aſſembly 1648. Seſſ. 30. orders thus, that where the Appeal after Sentence is not ready to be given in, the Party ſhall proteſt for liberty to Appeal, and accordingly, within ten days, give in his written Appeal to the Judicatory or Moderator thereof, otherwiſe it falls; Which order and method is further cleared by the 8. Act of Aſſembly 1694, whereby it is appointed, that verbal Appellants give in their ſubſcribed Appeals, within ten days to the Clerk of the Judicatory appealed from, (notwithſtanding the Judicatory may be up before the time) and alſo intimate the ſame to the Moderator, by leaving with him an authentic Copy thereof, with the reaſons of the ſame, to be regiſtrated by the Clerk, and Summons direct thereupon againſt Parties defenders, and extracts thereof, with the Citation forſaid, are to be produced by the Appellants at

the diſcuſſing thereof, declaring that any Appeals or inſiſtings thereupon, otherways made, ſhall be rejected.

When an Appeal is to be judged deſerted

§ 13. When the Judicatory AD QUEM meets, the party appealed, and oftentimes the Judge a QUO, craves that the Appellant may be called, and if he appear not, the appeal is holden as deſerted; in which caſe FIRMATUR SENTENTIA. If the Appellant fail, then to inſiſt, it IPSO FACTO falls, becomes void, and the Sentence of the Judicatory appealed from, is to be put in execution. See the Form of Proceſs on this head, enacted 1707. Unleſs the Appellants ſend full inſtructions and documents for the neceſſity of their abſence. See chap. 9. Art. 9. of the French Church Diſcipline.

How Parties are ſiſted by Bills and references.

14. By the Act of Aſſembly, 3d Aug. 1643, it is appointed that all Bills whatſoever of particular concernment, whereunto all parties having intereſt are not cited, ſhould be rejected. As alſo, that they be firſt preſented to the inferior Judicatories of the Kirk, who may competently conſider of them, and from them, be orderly & GRADATIM brought to the Aſſembly, and references are to be made by the inferior to the immediate ſuperior Judicatories in the ſame manner. Likewiſe, upon a reference made and intimate, all parties preſent are thereby cited, APUD ACTA, to the Judicatory referred unto: but if abſent, the Clerk muſt be ordered to direct Summons againſt them, which if omitted, the reference cannot be received.

When the BENE or MALE APPELLATUM is to be diſcuſſed.

§ 15. When an Appeal is brought from a Kirk-Seſſion to the Preſbytery, they are to conſider, whether the cauſe is of that nature, as it behoved at length to come to the Preſbytery, by the courſe of Diſcipline, before the final determination thereof: As, if it be in a Proceſs of alleged adultery or ſuch like; in which caſe, they may, to ſave themſelves time, fall upon conſideration of the affair, without inſiſting upon the BENE or MALE APPELLATUM, even though it ſeem to be prepoſterously appealed. But if the cauſe be ſuch, as the Kirk-Seſſion are the competent and proper Judges of, to its ultimate deciſion, and if there hath no cauſe been given by the Seſſion, through tranſgreſſing the rules of an orderly Proceſs, or by the incompetency of the Cenſure, the Preſbytery is not to ſuſtain the Appeal; and if they do not ſuſtain it, but find the Appellants to have been malicious, litigious, or precipitant, then they are to inflict ſome Cenſure, ſuch as reproof before the Preſbytery, or appoint them to acknowlege their precipitancy before their own Seſſion, and that beſide remitting the Proceſs to them. If the Appeal be ſuſtaind, and yet upon proceeding in the cauſe, the Preſbytery find the Appellant cenſurable, they are to ordain him to be cenſured accordingly: But if they find, that the Kirk-Seſſion hath unwarrantably proceeded, either to the contributing to the raiſing of a Scandal or inflicting a Cenſure without a ſufficient cauſe, they are then not only to abſolve the Appellant, but to

When the Appeal is not to be ſuſtained

When the Appeal is to be ſuſtained

take proper ways for vindicating his innocence; yet so as not to weaken the Kirk-Session's authority, for which end, they may give that Session suitable instructions and rules to walk by, or private admonition, or to call for a visitation of their Session Register. See that forecited Form of Process, Assembly 1707.

TITLE VI.

Of the Order of Proceeding to Excommunication.

When to proceed from the lesser to the Higher Excommunication, and Grounds for both.

§ 1. IF a guilty person continue in that condition mentioned, Tit. 1. H. L. or lie under the Censure of the Lesser Excommunication for a considerable time, after intimation thereof hath been made, both in the Congregation where it was inflicted, and also in that to which he belongeth; and yet be found frequently relapsing in these vices, he was censured for, it may be constructed such a degree of contumacy, and so aggravate the crime as to found a Process for the Censure of the Higher Excommunication, which is to be inflicted or not, as may most tend to the reclaiming of the guilty person, and edification of the Church. Where there is no obdurate contumacy, the Lesser Excommunication needs only have place. Again, where no scandalous practice hath been proven, only there is a simple contumacy following by not appearing; in that case, the Lesser Excommunication is length enough. But if the Scandal be of a hainous nature, and that it is spreading and infectious, as in heresies or schism in the Church; in which cases, contumacy is to be proceeded against.

Every error or Difference in Judgement not sufficient ground for Excommunication

§ 2. Yet every error or difference in judgment about points wherein learned and godly men may differ, and which subverts not the faith, nor is destructive to godliness, or when persons out of conscience, do not come up to the observation of all these rules, which are or shall be established by authority for regulating the outward worship of God, and government of His Church, the Censure of Excommunication should not be inflicted for such causes. See Durh. on Scandal. The Letter from the Assembly of Divines at Westminster, with the answer of our General Assembly, 1645.

How the Presbytery proceeds with persons present or absent in order to this censure.

§ 3. The Kirk-Session having brought the Process to the Lesser Excommunication, before they proceed further, they are by a Reference to lay their whole proceeding in writ before the Presbytery, who finding them to have orderly proceeded, and that the Lesser Excommunication is not sufficient, they are to cause cite the scandalous person. If he appear, and deny the scandal alleged and libelled, then they are to lead probation as in other cases. If he appear not, then the Citation is to be renewed until he hath got three.

After three ordinary ci-

§ 4. If he condemn these three Citations, then he is to be admonished out of the Pulpit, to appear and submit three several

tations, three public admonitions.

Sabbaths, and a Presbytery Diet should interveen between every one of these admonitions. By these admonitions intimations is to be made, that the Presbytery will proceed to enquire into the guilt, although the Delinquent be absent, and threatning him with the highest Censure of the Church, if he continue impenitent: and therefore the Minister is gavely to admonish the party present or absent to repent and submit himself to the Discipline of the Church.

After three Admonitions, follow three public Prayers.

§ 5. If after all, the person continue impenitent or contumacious, the Presbytery appoints the Minister to pray for him publicly in the Congregation, and he is to exhort them to join with him in prayer, that God would deal with the Soul of the impenitent, and convince him of the evil of his ways. Which Prayers of the Church, are to be put up three several Sabbath Days, a Presbytery interveening between each Prayer.

Edict for Excommunication.

§ 6. The scandalous Person still continuing impenitent, and making no application or submission, the Presbytery is then to appoint the Minister to intimate their resolution to proceed upon such a Sabbath as they shall name for pronouncing that dreadful Sentence, unless either the party or some other person for him, signify some relevant ground to stop the procedure, that so upon the Congregation's tacite consent and acquiescene, the Sentence may have its due weight and intended effect.

The Reason of this slow Procedure.

§ 7. All these slow and several steps of the Churches Proceedings to this high Censure, do shew their tenderness towards their relapsed Brother, their earnestness to have him reclaimed, and also to create a greater regard and terror of that dreadful Censure, both in the party and all the people. Let not those who deserve it, or upon whom it hath been orderly and justly inflicted, mock and say, PARTURIUNT MONTES, &c. For whatsoever the Church shall so bind on earth, our Lord hath said it shall be bound in heaven, Mat. xviii. 18. And this Censure is like a Seal to all the threatnings of God in His Word, which shall verily be execute against impenitent Sinners.

The Minister's Behaviour before he pronounce the Sentence.

§ 8. The day being come, the Minister is to preach a Sermon suited to that solemn occasion, concerning the nature, use, and ends of Church Censures; then, after the ordinary prayers and praises of the Congregation are performed, the Minister is to narrate all the steps of the Process, shew the obstinate impenitency of the Scandalous Person, and that now there remained only that mean of cutting him off from the Society of the Faithful. Then he is to desire the Congregation to join with him in prayer, that God would grant repentence to the obstinate Person, would graciously bless his own ordinance, to be a mean for reclaiming him, and that others may fear.

The Form of the Sentence of ex

§ 9. Then immediately after Prayer that terrible Sentence is to be pronounced, in these or the like words, speaking to him, in the Second Person, if present, and of him, in the

Third Perſon, if abſent. "Whereas thou N. haſt been by ſufficient proof convicted of (here mention the Sin) and after due Admonition and Prayer, remaineſt obſtinate, without any evidence or ſign of true repentance. Therefore in the Name of the Lord Jeſus Chriſt, and before this Congregation, I pronounce and declare thee N. Excommunicated, ſhut out from the Communion of the Faithful, debars thee from thsir privileges, and delivers thee unto Satan for the deſtruction of thy Fleſh, that thy Spirit may be ſaved in the Day of the Lord Jeſus." communication.

§ 10. Why the Apoſtle, 1 Cor. v. 5. expreſſes Excommunication by delivering unto Satan, may be for this, among other reaſons, that Satan is called the God of this World, as World is taken in oppoſition to the Church of God, ſo that delivering to him implies no more than that Mat. xviii. 17. if he neglect to hear the Church, let him be to thee as a heathen man and publican, thereby letting us know how dreadful a thing it is to be ſhut out from the ordinary means of grace and ſalvation, and expoſed to the temptations of our grand Adverſary the Devil. What is meant by delivering to Satan.

§ 11. If after Prayer, or before pronouncing of that Sentence, the ſcandalous perſon make any public ſignification of his penitency, and of his deſire to have the Cenſure ſtopped, the Miniſter may upon any apparent ſeriouſneſs in him, delay pronouncing him Excommunicated, upon his public engagement and promiſe to appear before the Preſbytery at their next meeting, of which the Miniſter is to make Report, and the Preſbytery is thereupon to deal with the ſcandalous perſon as they ſhall ſee cauſe. When pronouncing the Sentence may be ſtopped.

§ 12. After the pronouncing of this Sentence, the Miniſter is to warn the people of the effects thereof, ſuch as, that they hold that perſon to be caſt out of the Communion of the Church, and therefore they are to ſhun all unneceſſary converſe with him: Nevertheleſs Excommunication diſſolveth not the bonds of civil or natural relations. By the Act of Aſſembly 1596, revived, Aſſembly 1638. Seſſ. 23. Art. 16. ſuch are appointed to be Excommunicated, as will not forbear the company of Excommunicated Perſons. By the 10th of theſe Canons, called *Apostolical, Si quis etiam domi cum excommunicato simul oraverit, is pariter excommunicetur.* By Aſſembly 1643, Seſſ. ult. and Aſſembly 1648, Seſſ. 38. Art. 13. if a Miniſter haunt the company of Excommunicated Perſons, he ſhall be Suſpended for the firſt fault, and Deprived for the ſecond, unleſs he have licence from the Preſbytery, or elſe the excommunicated perſon be IN EXTREMIS. No civil penalty, ſuch as eſcheat of moveables or caption, doth now follow upon this ſentence, ſo that the liberty and eſtates of Church Members are not endangered by it, nor do they depend upon Church-men. But upon a Preſbytery's repreſentation to the Privy Council, againſt per- The Effects of this Sentence.

sons that are contumacious, such may not expect to enjoy their places, or be intrusted with any, as the last Act made against profaneness in King William's reign doth insinuate. By James 6. Parl. 11. chap. 27. excommunicate persons are to be charged by the Minister to depart from the Church in time of ministration of the Sacraments and prayer, and not to disobey, under the penalties therein mentioned.

Conclusion by Prayer Praise & pronouncing the blessing.

§ 13. The Minister is to conclude this Censure with Prayer to this purpose, that God who hath appointed this terrible Sentence for removing of offences, and reducing of obstinate Sinners, would ratify in Heaven, what in his name, and by his warrant hath now been done on earth, and that the shutting him out of the Church may fill him with Fear and Shame, break his obstinate Heart, and be a mean to destroy the flesh, and recover from the power of the Devil, that his Spirit may yet be saved, and also that others may be stricken with Fear, and not dare to sin so presumptuously, or contemn the Authority and Voice of his Church. See Knox's Forms, prefixed to the old Psalms. Then the Congregation is to be dismissed with the Blessing, after singing the last part of the 101 Psalm.

The Difference betwixt the greater and Lesser Excommunication.

§ 14. The 4. Art. Cap. 30. of our Confession of Faith saith, that for the better attaining the ends of Church censures, the officers of the Church are to proceed by admonition and suspension from the Sacrament of the Lord's Supper for a time, and by Excommunication from the Church. The Difference then betwixt these two censures is: Suspension from the Lord's Supper, imports that the person so censured is in imminent danger of being excommunicated and cut off from the Church, but before that heavy and finishing Stroke be inflicted, there are further means to be used, such as Prayers and Admonitions, in order to his reclaiming, 2 Thess. iii. 6. 14. 15. "Now we command you Brethren, in the name of our Lord Jesus Christ, that ye withdraw yourselves from every Brother that walketh disorderly: And if any Man obey not our word by this Epistle, note that Man, and have no company with him, that he may be ashamed, yet count him not as an Enemy, but admonish him as a Brother." Whereas when a person is cut off by that high Censure, he is to be looked on as a heathen Man, Matth. xviii. 17. upon which the Church ceaseth to be his reprover, they give him over for dead or desperate, and will administer no more of the Medicine of Church Discipline unto him, 1 Cor. xii. 13. "For what hath the Church to do to judge them that are without? do not they judge them that are within? but them that are without, God judgeth.

Summar Excommunication, what, and

§ 15. Persons guilty of Relapse in Adultery, or who are often guilty of other gross Scandals, are to be more summarily Excommunicate than in ordinary Processes, both for the heinousness of the Sin, and for terror to others. See Sess. 38. Assem-

1648, there is no Excommunication abſolutely Summar, that is, without previous Citations, Admonitions and Prayers, but it is comparatively Summar, becauſe they are not firſt ſuſpended, as in ordinary Church Procedures againſt ſcandalous perſons. I am ſure, where there is no obdurate contumacy, but on the contrary, edifying Signs of true repentance, to ſuch SINUS ECCLESÆ SEMPER PATET: For the Repentance of the greateſt Sinners is more edifying and greatful than their Excommunication, and if the Holy One of Iſrael, who is abſolute and ſovereign in beſtowing of his mercy and grace to whom and when he will, ſhall think fit, by giving unfeigned repentance to that nottour atrocious Sinner, to ſignify his forgiving of him, and receiving him into his favour; How dare any Church upon earth preſume to deliver ſuch a perſon unto Satan? when to be inflicted.

§ 16. In caſe the excommunicate Perſon continue obſtinate, after the Sentence of the Preſbytery is intimated in all the Kirks within their Bounds, they are to give an account thereof to the Synod, who are to appoint intimation thereof to be made in all the Kirks of their Bounds; and if need be, the Synod is to bring the caſe to the Aſſembly, that the Sentence may be intimate through all the Churches of the Kingdom. Aſſembly 1704. Seſſ. 10. Aſſembly 1648. Auguſt 10th. Only let this be remembered, that if he come to be abſolved, Juſtice be done him, in cauſing the abſolution be intimate, wherever the Excommunication had been, ſo the Plaiſter will be proportioned to the Sore. Intimation of the Sentence of Excommunication & Abſolution.

§ 17. There is in the Canon Law a Church Cenſure which they call INTERDICTUM, by which they Excommunicate whole Kingdoms and Provinces for the Fault of ſome, whereby they make the Innocent ſuffer with the Guilty, through the forbidding the public exerciſe of God's Worſhip in that Kingdom, Place, or Province. They have a particular INTERDICTUM by which they Excommunicate a number of Perſons ſpecially deſigned. By the firſt of theſe the inhabitants are only affected and reached with its Cenſure during their abode or reſidence in the Place interdicted. But the particular INTERDICT doth reach and follow the particular perſons thereby cenſured, wherever they Sojourn. INTERDICTUM Local and Particular.

§ 18. Calderwood in his Hiſtory, page 205, tells us, that Anathematization is a Cenſure of an higher degree than Excommunication, but the reformed Churches generally eſteem Excommunication to be SEVERISSIMA DISCIPLINA, & ULTIMUM FULMEN ECCLESIÆ, and in the 16. Sect. 1. Art. of the Directory for Church Government, as it was printed ANNO 1647, to be examined by the Aſſembly, it is ſaid, Excommunication is a ſhutting out of a perſon from the Communion of the Church, and it is the greateſt and laſt Cenſure. And, pray, Anathematization, Excommunication & Accurſing are Synonymous.

what can a Church do more? Or, what have they to do more with a perſon ſhut out of their Communion? The Anathematization among the Canoniſts hath no other effects, but is the ſame upon the matter with their greater Excommunication; Only, when the ſame is inflicted with a number of more ſolemnities and formalities, becauſe of that parade it is then called Anathematization. And we find by Knox's Forms, that he uſeth the words excommunicated and accurſed, as Synonymous or Equipollent: See the Form of Proceſs both on this and the ſubſequent Title Aſſembly 1707.

TITLE VII.

Of the Order of proceeding to Abſolution.

The old and preſent Method of proceeding to Abſolution.

§ 1. BY the manuſcript Acts of Aſſembly, at Edinburgh, March 1569, perſons excommunicated for their offences, in order to their Abſolution, ſhall ſtand Bare-headed at the Kirk-door till Prayers and Singing be ended, and then enter the Kirk, and ſit at the public place of Repentance Bare-headed all the time of the Sermon, and again depart before the laſt Prayer, which is agreeable to Knox's Forms, concluded ANNO 1567, and ordered to be printed by Aſſembly 1571, and is not diſagreeable to the primitive practice of the Church. But now, if after Excommunication the ſigns of Repentance appear in the perſon excommunicated, ſuch as godly ſorrow for ſin, as having thereby incurred God's heavy Diſpleaſure, occaſioned Grief to his Brethren, and juſtly provoked them to caſt him out of their Communion, together with a full purpoſe of Heart to turn from his ſin unto God, with a humble deſire of recovering peace with God and his People. All which the Preſbytery being ſatisfied with, they give warrant for his Abſolution: But in order thereto, he is to be brought before the Congregation, and there alſo make free confeſſion and expreſs ſorrow for his ſin, call upon God for mercy in Chriſt, ſeek to be reſtored to the Communion of the Church, and he muſt promiſe, through the Lord's ſtrength, new obedience and more holy and circumſpect walking. Which appearance before the Congregation, ſhall be as often as Church Judicatories ſhall find may be for edification and Trial of the profeſſing Penitent's ſincerity.

Abſolution IN EXTREMIS.

§ 2. A Miniſter may warrantably without licence from the Preſbytery, haunt the company of excommunicate Perſons IN EXTREMIS, as is ſaid, TIT. PRÆC. And if he ſhall then find in the dying perſon true ſigns of repentance, what is there to forbid his adminiſtrating the comfortable Sentence of Abſolution to him, ſeeing it is due to the ſigns of his Repentance, and his dying condition cannot admit of longer delay. But that Miniſters might have better warrant, and the Fears of dying Penitents be more eaſily removed, I wiſh there were ſome Church

Act expresly authorizing Ministers to absolve persons in such circumstances.

§ 3. In the preceeding Title there is an edict of Excommunication mentioned, so in like manner, and on the same ground, there should be published an edict of Absolution, at least a Sabbath before the same, that so the Penitent may be restored to the apparent and tacite satisfaction of that Congregation who had so consented to his seclusion. Edict of Absolution.

§ 4. The day being come, the Minister is to preach a Sermon suited to that occasion; Then, after the ordinary Prayers and Praises of the Congregation are ended, he is to call upon the professed Penitent, and make him declare, promise, and call upon God as above: Thereafter he is to desire the Congregation to join with him in Prayer to this purpose, that the Lord Jesus Christ who hath pronounced, that whosoever by his Ministers is bound on Earth, shall be bound in Heaven; and also, that whosoever is loosed by the same, shall be loosed and absolved with him in Heaven, would mercifully accept his creature this professing Penitent N. whom Satan of a long time hath held in bondage, so that he not only drew him to iniquity, but also so hardened his Heart, that he despised all admonitions, for the which his sin and contempt, they were compelled to excommunicate him from the Society of the Faithful. But now seeing the Holy Spirit hath so far prevailed, that he professeth Repentance for his sin, that it may please God by His Spirit and Grace, to make him a sincere and unfeigned Penitent: and for the obedience of our Lord Jesus Christ unto Death, so to accept of this poor returning Sinner, that his former disobedience be never laid to his charge, and that he may increase in all godliness, so that Satan in the end may be trodden under foot by the power of our Lord Jesus, and God my be glorified, the Church edified, and the Penitent saved in the day of the Lord. The Minister's Behaviour and Prayer before absolution.

§ 5. After prayer, the Sentence of Absolution is to be pronounced in these or the like words. "Whereas thou N. hast been shut out, for thy Sin, from the Congregation of the Faithful, and hast now manifested thy Repentence, wherein the Church resteth satisfied; In the Name of the Lord Jesus Christ, before this congregation, I pronounce and declare thee absolved from the Sentence of Excommunication formerly denounced against thee, and do receive thee into the Communion of the Church, and the free use of all the ordinances of Christ, that thou mayest be partaker of all His Benefits to thy eternal Salvation." After this is pronounced, the Minister speaketh to him as a Brother, exhorting him to watch and pray, or comforting him, if there be need, the Elders imbrace him, and the whole Congregation holdeth communion with him as one of their own. Sentence of Absolution and Exhortation to the Absolved.

§ 6. When the Presbytery hath given warrant for absolving

How the Excommunicated are prayed for before Absolution.

the Excommunicate Person, he is thereupon materially obsolved, and therefore may be admitted to Church Worship, before he be actually and formally pronounced and declared such. The Church may pray for excommunicate persons, unless they had certain knowlege, I mean very well grounded, that any of them had committed the unpardonable Sin, and that unto Death, 1 John v. 16.—Mat. xii. 31, 32. and when we do pray for these Excommunicated, whom we hope not to be so guilty, yet we do not pray for them as Christians, or of our own communion, but as if they were Heathens, for their conversion and Repentance.

Conclusion of the Absolution

§ 7. The Minister is to conclude the Absolution with Prayer, thanking God who delighteth not in the Death of a Sinner, but rather that he should repent and and live, and magnifying the mercy of God through Jesus Christ, in pardoning and receiving into his favour the most grievous Offenders, whenever by his Grace they unfeignedly repent and forsake their sins. Thereafter the Congregation is dismissed with the Blessing, after singing a part of some penitential Psalm.

End of the Collections.

THE

FORM OF PROCESS

IN THE JUDICATORIES OF THE

CHURCH OF SCOTLAND;

WITH RELATION TO

SCANDALS

AND

CENSURES.

ARBROATH:

PRINTED BY J. FINDLAY.

1802.

An Act of the General Aſſembly approving a Form of Proceſs, &c.

Edinburgh, April 18th, 1707, *Seſſ.* 11th.

THE General Aſſembly having at this day and at ſeveral former Diets had read in their audience the Overtures concerning a Form of Proceſs in the Judicatories of this Church, with relation to Scandals and Cenſures, which were tranſmitted by the late General Aſſembly to the ſeveral Preſbyteries for their Judgement thereupon, and having maturely conſidered the ſaids whole Overtures with the remarks and obſervations of Preſbyteries made upon the ſame, after full reaſoning, both in Committees and open Aſſembly upon the ſeveral particulars contained in the ſaid Form of Proceſs, the General Aſſembly did by their Votes *nemine contradicente*, and hereby do ratify and approve the foreſaid Form of Proceſs as now amended in the whole heads and articles thereof, and appoint and ordain the ſame to be obſerved and practiſed by the reſpective Judicatories of this Church, as an Act and ordinance of Aſſembly, and as fixed, binding Rules and Directions in the whole matters therein contained, except the 7th 8th and 9th paragraphs of the fourth Chapter and what concerns the preſſing of the Oath of Purgation. As to which the General Aſſembly ſupercedes at this time to enjoin the Obſervation thereof as poſitive ſtanding Rules, but they did and hereby do unanimouſly recommend to the ſeveral Preſbyteries and other Judicatories of the Church, that they regulate themſelves according to the advice therein inſinuated, as they ſhall find to tend moſt for edification; The tenor of which Form of Proceſs follows.

THE

FORM OF PROCESS.

CHAP. I.

Concerning Church Government, Diſcipline, Scandal and Cenſures in general.

OUR Lord Jeſus Chriſt hath inſtituted a government, and governors eccleſiaſtical in his houſe, with power to meet for the order and government thereof; and to that purpoſe, the apoſtles did immediately receive the keys from the hands of their Lord and Maſter Jeſus Chriſt, and did uſe and exerciſe the ſame upon all occaſions, and Chriſt hath from time to time furniſhed ſome in his church with gifts for government, and with commiſſion to exerciſe it when called thereunto, and has promiſed his preſence to be with them to the end of the world.

2. It is agreeable to and founded on the word of God, that ſome others, beſide thoſe who labour in the word and doctrine be church governors, to join with the miniſters of the word in the government of the church, and exerciſe of diſcipline and overſight of the manners of the people, which officers are called ruling elders; As alſo, that the church be governed by ſeveral ſorts of judicatories, and one in ſubordination to the other, ſuch as kirk-ſeſſions, preſbyteries, provincial ſynods and general aſſemblies.

3. Church diſcipline and cenſures, for judging and removing of offences are of great uſe and neceſſity in the church, that the name of God by reaſon of ungodly and wicked perſons living in the church, be not blaſphemed, nor his wrath provoked againſt his people, that the godly be not leavened with, but preſerved from the contagion, and ſtricken with fear, and that ſinners who are to be cenſured may be aſhamed, to the deſtruction of the fleſh, and ſaving of the ſpirit in the day of the Lord Jeſus.

4. Nothing ought to be admitted by any church judicatory as the ground of a proceſs for cenſure, but what hath been declared cenſurable by the word of God, or ſome act of univerſal cuſtom of this national church agreeable thereto: and the ſeveral judicatories of this church ought to take timeous notice of all ſcandals; But it is judged, that if a ſcandal ſhall happen not to be noticed in order to cenſure for the ſpace of five years, it ſhould not be again revived, ſo as to enter in a proceſs thereanent, unleſs it be of an hainous nature, or become again flagrant, but the conſciences of ſuch perſons ought to be ſeriouſly dealt with in private to bring them to a ſenſe of their ſin and duty.

5. Theſe aſſemblies or church judicatories before-mentioned have power to conveen and call before them any perſons within their own bounds, whom the eccleſiaſtic buſineſs, which is before them doth concern, either as party, witneſs, or otherwiſe, and to examine them according to the nature of the affair, and to hear and determine in ſuch caſes as ſhall orderly come before them and accordingly diſpenſe church cenſures.

6. If a perſon be charged with a ſcandal, who lives within the bounds of another pariſh, the kirk ſeſſion of the pariſh where that perſon reſides ſhould be deſired to cauſe cite that perſon to anſwer before the ſeſſion in whoſe bounds the ſcandal happened, and the ſame courſe is to be followed in ſuch caſes by the other judicatories of the church, ſeeing for order's ſake they ſhould not preſume to exerciſe their authority without their own bounds.

7. The miniſter of the word being an office above that of the ruling elder, cannot be liable to the cenſure of the kirk ſeſſion but to the ſuperior judicatories of the church.

CHAP. II.

Concerning the entering of Proceſſes, citation of Parties, and Wineſſes, and asking Depoſitions, and anent Fugitives from Diſcipline.

MEMBERS of kirk ſeſſions are wiſely to conſider the information they get of ſcandals, and conſult with their miniſter thereanent, even before the ſame be communicate to others, that thereby the ſpreading of the ſcandal may be prevented, and it may be removed by private admonition according to our Lord and Saviour's rule, Matth. xviii. 15. which if amendment follow, is the far better way of gaining and recovering a lapſed brother, whereas the needleſs ſpreading of a ſcandal does ſometimes harden the guilty, grieve the godly, and is diſhonourable to religion.

2. When any buſineſs is moved in a church judicatory, whether by information, petition, or otherwiſe, they are in the firſt place to conſider, whether the matter in its circumſtential caſe be proper for them to enter upon, and whether it be orderly brought in, and proper for them to cognoſce and diſcuſs it themſelves, or prepare it for ſuperior judicatories, and ſhould endeavour to ſhorten their work as much as with the edification of the church they can, eſpecially as to the head of ſcandal, but ſtill on all occaſions the office bearers in the houſe of God are to ſhew all prudent zeal againſt ſin.

3. In proceeding in all cauſes, where there is any perſon or parties concerned, the judicatory is to ſee, that before they proceed, theſe perſons or parties be duly ſiſted before them by a legal and timeous citation in writ, bearing its cauſe, either at the inſtance of a party complaining, or at leaſt by order of the judicatory; and if they be reſiding within the pariſh, the ſame may be upon forty-eight hours advertiſement, and the execution of the ſummons bearing its cauſe, and made before two or three witneſſes inſert, is to be returned by the beadle or officer in writing, and the perſons cited, called at the door; and this is eſpecially to be obſerved by preſbyteries and other ſuperior judicatories of the church.

4. Sometimes it may be fit that the party be privately ſpoken to, before any citation be given or Proceſs begun, for their better gaining, in which caſe the miniſter is to exerciſe his own diſcretion, and take the concurrence of elders and others with him, but if the party cited as above, appear not, there ought to be a ſecond and then a third citation given by the order of the ſeſſions and preſbyteries, either perſonally, or left at their dwell-

ing houſe, before the judicatory declare the perſon contumacious, unleſs the party be cited to appear before a ſuperior judicatory by reference or appeal, in which caſe there is not that need of ſo many citations before the ſuperior judicatory, the party having actually appeared before the inferior judicatory, and being cited APUD ACTA to appear before the ſuperior, and the ſame marked in the minutes, or having been declared contumacious before the cauſe was brought before the ſuperior judicatory.

5. All citations APUD ACTA, are peremptory, and if inſtructed, infer contumacy if not obeyed.

6. If the perſon do not appear on the third citation, or upon a citation APUD ACTA, and no relevant excuſe adduced and verified, though in that cauſe he be cenſurable for contumacy, yet it may be fit the judicatory proceed to take cognition, either by examining witneſſes upon oath, or by other documents of the verity of the ſcandals delated againſt him, before they cenſure him for contumacy.

7. If the party appear, then the moderator is to inform the perſon of the occaſion of his being called, and to give him, if deſired, a ſhort note in writing thereof, with the names of the witneſſes that are to be made uſe of.

8. There ſeems to be no need of accuſers or informers in eccleſiaſtic Proceſſes, where the ſame are not raiſed at the inſtance of a party complaining formally, but the party if cited by order of the judicatory, is to anſwer the judicatory in what is laid to his charge: yet ſo, that if the party cited be found innocent and acquitted, thoſe who informed the judicatory, whether the party require it or not, ought to be noticed, for either their calumny or imprudence, as the judicatory ſhall find cauſe.

9. If there be witneſſes to be made uſe of in the Proceſs, a liſt of their names ought to be given to the defenders ſome time before, or at leaſt at their compearance, and the witneſſes ought to be timeouſly cited to give evidence; and if they refuſe after three citations given, and executions returned, may be proceeded with as contumacious, or if judged needful, after the firſt or ſecond citation, application may be made to the civil magiſtrate, that he may oblige them to appear.

10. Before the witneſſes be judicially examined, the accuſed perſon is to be called, and the relevancy of the libel diſcuſſed, and if the defender compear, he may object againſt any of them, and if the objection be relevant, and made evident to the judicatory, the witneſſes are to be caſt, but a perſon's being the delator or informer, doth not hinder him to be a witneſs, except in the caſe where he formerly complained for his own intereſt, or of pregnant preſumptions of malice againſt the perſon accuſed.

11. Though there be no relevant objection, yet the witneſſes are ſolemnly to be purged of malice, bribe or good deed done or to be done, and of partial counſel.

12. The witneſſes are to be examined in preſence of the accuſed party, if compearing, and he may deſire the moderator to propoſe ſuch queſtions or croſs queſtions to the witneſſes, as may tend to his exculpation, which if the judicatory think pertinent are to be propoſed, but no accuſed perſon is to interrupt the witneſſes, or ſpeak during the time of depoſition.

13. If the party accuſed do before probation offer grounds of exculpation to be proven by witneſſes, the moderator and clerk, if required, are to give warrant to cite the witneſſes upon the party's charges, the relevancy of the offered exculpation being firſt conſidered and ſuſtained by the judicatory, and if the exculpation be fully proven as to the ſubſtance of the ſcandal, all further proof of the libel and accuſation muſt there ſiſt, and the defender is to be aſſoilzied, and if the libel be ſpecial as to the time and place of a fact, and the accuſed more pregnantly alledge and clearly prove ALIBI, but if the ſubſtance of the ſcandal be once ſuſtained and deponed upon, there can be no place for exculpation, unleſs it be as to ſome extenuating or alleviating circumſtances not contrary to, but conſiſting with the depoſitions already taken.

14. If the witneſſes cannot ſubſcribe their names to their depoſitions, the clerk is to mark that they declare they cannot writ, and the moderator is to ſubſcribe the ſame, whether they can ſubſcribe or not.

15. After the depoſitions are ended, the parties being removed, the members of the judicatory at the ſame or ſome after diet thereto appointed, are to adviſe the cauſe, and there and then to reaſon the affair calmly, ſpeaking always to the moderator one after another, without interrupting one another, uſing no reflecting language to, or of one another, nor too long harangues or digreſſions.

16. If any perſon or perſons under Proceſs for ſcandals abſcond, they ſhall after being called before the judicatory and not compearing, be cited firſt from the pulpit of the pariſh where the Proceſs depends and where they reſide, and if they do not thereupon appear before the judicatory before whom the Proceſs depends, they are by order of the preſbytery to be cited from the pulpits of all the kirks within their bounds to compear before the preſbytery: and if they do not then compear, they are to be declared fugitive from the church diſcipline, and the ſame intimate in all the kirks within the bounds of the preſbytery, deſiring, that if any knows of the ſaid fugitives, they may acquaint the miniſter or elder of the bounds thereof, and the preſbytery are to ſiſt there until they get further notice of theſe perſons.

CHAP. III.

Concerning Swearers, Curſers, Profaners of the Lord's Day, Drunkards, and other Scandals of that nature.

IT may fall out that one ſingle act of drunkenneſs or breach of the Lord's day, diſobedience to parents, or of ſwearing, curſing, ſcolding, fighting, lying, cheating or ſtealing, may be clothed with ſuch circumſtances as may be a juſt ground of Proceſs immediately, and even bring the perſons guilty under the cenſure of the leſſer excommunication and ſuſpenſion from the benefit of the ſealing ordinances, and require their appearance in preſence of the congregation to be rebuked, before relaxation, but the weight of this is duly to be pondered, and church judicatories and members thereof, are to conſider whether private admonition of the perſons alledged and found guilty of the above ſcandals, if not clothed with ſuch circumſtances of bringing them to the public, will tend moſt to edification, and proceed accordingly.

2. But ordinarily in all ſuch offences, the guilty for the firſt fault would be ſpoken to in private by the miniſter or an elder and admoniſhed, and on promiſe from a ſenſe of guilt to amend, they may ſiſt there.

3. But if the perſon relapſe, he ſhould be called before the ſeſſion, and if found guilty may be there judicially rebuked, where the ſeſſion on promiſe, from a due ſenſe of ſin, to amend, may again ſiſt.

4. But if the perſon amend not after that the ſeſſion ſhould orderly proceed, unleſs repentance appear and due ſatisfaction be offered, till they inflict the cenſure of the leſſer excommunication and ſuſpenſion from the benefit of the ſealing ordinances, under which the cenſured are to lie till amendment and reformation.

5. With reſpect to ſcandals, the groſſneſs whereof makes it neceſſary to bring the perſons guilty oftener than once before the congregation, the rules preſcribed by the fourth act of the general aſſembly ANNO 1705, are to be followed.

6. If the guilty perſons continue in this condition, or lie under the cenſure of the leſſer excommunication a conſiderable time, and yet be found frequently relapſing in theſe vices they are cenſured for, it may be conſtructed ſuch a degree of contumacy, and ſo aggravate the crime as to found a Proceſs of the cenſure of the higher excommunication, which is to be inflicted, or not, as may tend moſt to the reclaiming of the guilty perſon and edification of the church.

CHAP. IV.

Concerning the ſin of Fornication, Adultery and ſcandalous Carriage tending thereto.

IN delations about the ſins of uncleanneſs, it falls frequently out, that when the matter is put to the ſtricteſt trial, all that can be proven is but preſumptions of guilt or ſcandalous behaviour, and not the act of uncleanneſs, the ſame being a work of darkneſs; and therefore this ſhould oblige the kirk ſeſſion to be very cautious how to admit the public entering a Proceſs without good warrant, where there is not a child in the caſe, unleſs the ſcandal be very flagrant.

2. Many of theſe actions which give occaſion to the raiſing a ſcandal of uncleanneſs, are ſuch as are not themſelves alone publicly cenſureable, but to be paſt by with a private rebuke or admonition.

3. Yet ſome of theſe actions which come under the name of ſcandalous behaviour, may be ſo lacivious and obſcene, and clothed with ſuch circumſtances, as may be as offenſive as the act of uncleanneſs itſelf, & as cenſurable.

4. If a married woman whoſe huſband hath not been notourly abſent for a conſiderable time, beyond the ordinary time that women uſeth to go with child, be found with child, this alſo may give ground to a kirk ſeſſion for a Proceſs againſt her; but in this caſe judicatories would be prudent in conſidering well all circumſtances, and whether or not the perſon hath been always of entire fame before, as alſo how the public fame now runs.

5. When an unmarried woman is known to be with child, the fame gives ground to a kirk ſeſſion for a Proceſs againſt her, and after ſhe is cited before the ſeſſion, and appeareth, ſhe is to be interrogate who is the father of

that child, and though in other cases the divulging of a secret may be very imprudent and indeed the raising of a scandal, yet in this case where there is a child, whereby there is an undeniable scandal, and the keeping secret of the father a ground of great offence, and of suspecting many innocent persons, if she discover not the father, she is to be looked upon as contumacious.

6. Prudence may sometimes require that the person she nameth to be the father of the child, be informed thereof, and spoke to privately, and if he deny the same, he is seriously to be dealt with to confess, but if he still deny, then the session is to cause cite him to appear before them.

7. In this Process, when the delated father compeareth, he is to be interrogate, and if he deny, he is to be confronted with the woman, and the presumptions, as particularly held forth as possible, and all along there should be private treating with him, in all meekness, charity and seriousness, and if after all this, he deny, though the woman's testimony can be no sufficient evidence against him, yet pregnant presumptions, such as suspicious frequenting her company, or being SOLUS CUM SOLA IN LOCO SUSPECTO, or in suspect postures and such like, which he cannot disprove to the satisfaction of the session, may so lay the guilt upon him, as shew him, that there appears no other way of removing the scandal, but his appearance to be publicly rebuked therefore; if he will not submit himself to be rebuked as above, it perhaps may be more for edification that a true narrative of the case be laid before the congregation, and intimation given that there can be no further procedure in that matter, till God in his providence give further light, to sift there at the time, than that an oath be prest, and upon refusal proceed to the higher excommunication; but if the person accused do offer his oath of purgation, and crave the privilege thereof, the presbytery may (if they shall jude it for edification and removing of the scandal) allow the same which may be to this purpose.

"I A. B. now under Process before the presbytery of for that "sin of alledged to be committed by me with C. D. and lying under that grievious slander, being repute as one guilty of that sin; I for "ending of the said Process and giving satisfaction to all good people, do "declare before God and this that I am innocent and free of the said "sin of or having carnal knowlege of the said C. D. and hereby call "the great God, the judger and avenger of all falshood, to be witness and "judge against me in this matter if I be guilty; and this I do by taking "his blessed name in my mouth, and swearing by him, who is the great "judge, punisher and avenger as said is, and that in the sincerity of my heart "according to the truth of the matter and mine own conscience, as I shall "answer to God in the last and great day, when I shall stand before him "to answer for all that I do in the flesh, and as I would partake of his "glory in heaven after this life is at an end."

8. In taking this oath for purgation, all tenderness and caution is to be used, nor is the session to press any man thereto, but they are to deal with him and his conscience, as in the sight of God, and if he offer to give his oath, the judicatory are to accept it or not as they shall see cause, and then to proceed to remove the scandal, with the advice of the presbytery, as may be most to edification; but this oath is not to be taken in any case but this,

when the preſumptions are ſo great that they create ſuch jealouſy in that congregation and ſeſſion, that nothing will remove the ſuſpicion but the man's oath of purgation, and when his oath will probably remove the ſcandal and ſuſpicion, in all other caſes this oath is in vain, and ſo ſhould not be admitted, and never but by advice of the preſbytery.

9. This oath for purgation is to be taken either before the kirk ſeſſion or preſbytery, or the congregations as the preſbytery ſhall determine, and if the oath be taken before the ſeſſion or preſbytery, it is to be intimate to the congregation that ſuch a perſon hath taken ſuch an oath, and the party may be obliged to be preſent in the congregation, and may be put publicly to own his purging himſelf by oath, and ſo be declared free from the alleged ſcandal.

10. After an end is made as above, with the delated father, the woman is to be dealt with to give the true father, and if after all ſerious dealing, and due dilligence, ſhe give no other, ſhe is to be cenſured according to the quality of the offence confeſſed by her, without naming the perſon delated by her, the judicatory reſerving place for further cenſure upon further diſcovery.

11. If the woman who hath brought forth the child, doth declare ſhe knoweth not the father, alledging ſhe was forced, as in the fields, by a perſon unknown, or any the like reaſon; in theſe caſes, great prudence is to be uſed, the former behaviour of the woman exactly ſearched into, and ſhe ſeriouſly dealt with to be ingenuous, and if ſhe has been of entire fame, ſhe may be put to it to declare the truth as if ſhe were upon oath, but not without advice of the preſbytery, and no formal oath ſhould be taken, and if the woman confeſs ſhe was not forced, but doth not know the man, whether married or unmarried, the ſame cenſure is to be inflicted upon her, as in the caſe of adultery.

12. If a perſon doth voluntarily confeſs uncleanneſs, and if there be no child, and the caſe be brought to the kirk-ſeſſion, the ſeſſion is to enquire what preſumptions there are of the truth of the thing confeſſed, or what may have moved the perſon to make that confeſſion, whether it floweth from diſquietneſs of mind, or from ſiniſtrous deſign, as when a man ſuing to a woman for marriage, is denied, and for revenge, or for to obtain his deſire, ſpreads the report that he hath been guilty with her, they are to be dealt with, according as the preſumptions upon ſearch, are found, or not.

13. If it be found there is no ground for the confeſſion, and that it is falſe, the perſon confeſſing is to be cenſured as defaming himſelf, and likewiſe as a ſlanderer of the other party; and withal application is to be made by the ſeſſion to the civil magiſtrate, that he may be puniſhed according to law.

14. If there be need of witneſſes, the directions formerly mentioned, chap. 2d. are to be followed.

15. When perſons guilty of uncleanneſs, live one in one pariſh, and another in another pariſh, the Proceſs againſt them, and cenſures are to be before the ſeſſion of the pariſh where the woman liveth, or where the ſcandal is moſt nottour.

16. If a ſcandal of uncleanneſs be committed where neither parties reſide, as if perſons having their fixed reſidence in one pariſh, do commit unclean-

neſs in another periſh, or perhaps in the fields, or in the time of fairs or markets; in theſe caſes, they are to be proceſſed and cenſured where there ordinary abode is, except the place of there abode be at a conſiderable diſtance from the place where the ſin was committed, and the ſcandal be moſt flagrant where it was committed.

17. When there is a ſcandal of uncleanneſs whereof perſons are guilty, living in different pariſhes, the ſeſſion where the ſin was committed, is to acquaint the other ſeſſions where any of the perſons reſides, who are EX DEBITO to cauſe ſummon theſe perſons to appear before that ſeſſion, where the ſcandal is to be tried.

18. When a perſon is convict of ſcandal by a ſeſſion of another congregation than his own, and the cenſure of the Leſſer Excommunication is inflicted, the ſeſſion is to ſend an account thereof to that ſeſſion to which he belongs, but there is no need of any other ſentence of his own ſeſſion to fix the cenſure on him, but only a public intimation thereof to be made in his own pariſh.

19. When a perſon is cenſured and abſolved from his ſcandal in another congregation than where he lives, he is to bring a teſtimonial of his abſolution, which is to be intimate to the congregation he lives in, if the ſcandal be alſo flagrant there; otherwiſe it will be ſufficient to intimate the ſame to the ſeſſion, and the ſame is to be done in the caſe of the profeſſion of repentance where there has been a ſentence of the Leſſer Excommunication.

CHAP. V.

Concerning Appeals from a Kirk-ſeſſion to a Preſbytery &c.

ALL perſons who judge themſelves leaſed by the procedure or ſentence of a kirk-ſeſſion, may appeal to the preſbytery by declaring and proteſting at paſſing of the ſentence, and ſhould thereupon according to the eight act of the general aſſembly, 1694, give in the appeal with the reaſons thereof in write, to the moderator or clerk of the ſeſſion, within the ſpace of ten days after the time of appealing, and procure extracts thereof, and preſent the ſame to the next meeting of the preſbytery thereafter, if there be a competent time, at leaſt ten days free between the time of appealing and the meeting of the preſbytery; and ſhould then inſiſt in the appeal, wherein if the appellant fail, the appeal IPSO FACTO falls and becomes null, and the appellant is to be held as contumacious, and proceeded againſt accordingly by the kirk ſeſſion.

2. When an appeal is brought from a kirk ſeſſion to a preſbytery, the preſbytery is to conſider, whether the cauſe is of that nature, as it behoveth at length to come to the preſbytery by the courſe of diſcipline, before the final determination thereof, as if it be in a Proceſs of alledged adultery or ſuch like, then the preſbytery to ſave themſelves time may fall upon the conſideration of the affair without inſiſting much upon the BENE or MALE APPELLATUM, though it ſeem to be prepoſterouſly appealed.

3. But if the cauſe be ſuch as the kirk ſeſſion are the competent and proper judges of, even to its ultimate deciſion, and if there hath been no cauſe given by the kirk ſeſſion, by their breaking the rules of an orderly

Proceſs, either by the courſe of the Proceſs, or by the incompetency of the cenſure, the Preſbytery is not to ſuſtain the appeal.

4. If the preſbytery do not ſuſtain the appeal, and find there hath been ſome fault, paſſion, or culpable miſtake in the appellant, the presbytery is to inflict ſome cenſure, ſuch as [illegible] before the presbytery, or appoint an acknowleging of their precipitancy before their own ſeſſion or ſuch like, on theſe appealers they find to have been malicious and litigious, thereby to prevent unneceſſary appeals, and that beſide remitting back to the ſeſſion, to ſtand either to the cenſure of the ſeſſion, if it be inflicted already, or to ſiſt themſelves during the Proceſs, if it be depending.

5. If the appeal be ſuſtained, and yet upon proceeding on the cauſe the preſbytery find the appellant cenſurable, it is always to be minded, that whatever cenſure be inflicted to remove the offence he hath given to the preſbytery, yet the appellant, if found guilty, is to undergo a cenſure, either before the kirk ſeſſion or congregation he belongs to, ſuch as the preſbytery thinks he deſerves, elſe preſbyteries will be always troubled with appeals.

6. If on the other hand, on trial of the Proceſs, the preſbytery find the kirk ſeſſion hath unwarrantably proceeded, either in contributing to the raiſing of a ſcandal, or inflicting the cenſure without a ſufficient cauſe, and thereby the appellant leaſed; the preſbytery is not only to aſſoilizie the appellant, but to take ſuch ways as may be proper and effectual to vindicate the appellant's innocency, and wipe off the ſcandal taken at him.

7. Herein the presbytery is to exerciſe great prudence, doing juſtice to the innocent, yet ſo, as not to weaken the kirk ſeſſion's authority in that congregation, if in juſtice it can be avoided.

8. But ſuch an emergent may very well occaſion the presbytery's giving the miniſter and elders of that ſeſſion ſuitable injunctions and rules to walk by, or private admonitions, or to call for a viſitiation of their ſeſſion regiſter.

9. The ſame method is to be followed in appeals from presbyteries to ſynods, and from ſynods to general aſſemblies.

10. An appeal being made by parties, ſhould ſiſt the execution of the ſentence appealed from, only while the appeal is duly and diligently proſecute, and may thereby be determined, otherwiſe not, unleſs the judicatory appealed to, receive the appeal, and take the affair before them, and in that caſe the judicatory appealed from, is to ſiſt until the appeal be diſcuſſed.

CHAP. VI.

Concerning Proceſſes, which natively begin at the Kirk Seſſion, but are not to be brought to a final Determination by them.

THERE are ſome Proceſſes, which natively begin at the Kirk Seſſion, which, for the atrocity of the ſcandal, or difficulty in the affair, or general concern, the ſeſſion having the opportunity of frequent meetings of the preſbytery to have recourſe thereunto, do not determine of themſelves, ſuch as ſcandals of inceſt, adultery, trilapſes in fornication, murder, atheiſm, idolatry, witchcraft, charming, and hereſy and error, vented and made public by any in the congregation, ſchiſm and ſeparation from the public ordinances, proceſſes in order to the higheſt cenſures of the church, and continued contumacy; but the kirk ſeſſion having received information of ſuch

groſs ſcandals, they are to weigh the ſame according to the rules and directions preſcribed them in Proceſſes, which belong to their peculiar province, and if they find good ground for a proceſs, they are to deal with the perſon accuſed to confeſs, that which now cannot be hid nor amended, till ſatisfaction be made to the church, which when done, the ſeſſion is to refer the caſe, and ſend an extract of their procedure thereanent to the preſbytery.

2. When there is no confeſſion of the ſcandals above-mentioned, the ſeſſion are not to proceed to lead probation by witneſſes or preſumptions, till an account of the matter be brought by reference to the preſbytery as aforeſaid, and the preſbytery do thereupon appoint the ſeſſion to proceed and lead probation; and after probation is led, the ſame is to be brought to the preſbytery, who may inflict what cenſure they ſee cauſe.

3. Sometimes it will fall out that the proceſs is ſo clear, as in a caſe of judicial confeſſion, that the kirk ſeſſion may ſummon the delinquent when before them APUD ACTA, to compear before the preſbytery, without previous acquainting them thereof, but where there is any difficulty, the kirk ſeſſion ſhould inform the preſbytery and take their advice before a party be ſummoned before them.

4. When the party or parties compear before the preſbytery, if they confeſs and profeſs repentance for their ſin, then the preſbytery having gravely rebuked, and ſeriouſly exhorted the party or parties, are to determine the cenſure, and preſcribe the time and place of the parties, their profeſſion of their repentance publicly in the church of that congregation where the proceſs began, the ſcandal being there to be taken away, or remit them to the ſeſſion to receive orders thereanent.

5. It is thought more fit that the delinquents be appointed to remove the ſcandal in the congregation, where the offence is moſt flagrant, eſpecially if they reſide there, rather than in the place where it was committed, if it be not public there, and that intimation of the removing thereof be made in other places, if the judicatory ſhall find it needful.

6. When perſons cenſured for theſe groſſer ſcandals do apply to the kirk ſeſſion for relaxation, they may both be privately conferred with, and likewiſe their acknowledgements heard before the ſeſſion, but they ought not to be brought before the congreagation, in order to their abſolution, nor abſolved, but by advice and order of the preſbytery.

CHAP. VII.

Concerning Proceſſes againſt Miniſters.

ALL proceſſes againſt any miniſter, are to begin before the preſbytery to which he belongeth, and not before the kirk ſeſſion of his own pariſh.

2. The credit and ſucceſs of the goſpel (in the way of an ordinary mean) much depending on the entire credit and reputation of miniſters, their ſound doctrine and holy converſation, no ſtain thereof ought lightly to be received, nor when it comes before a judicatory ought to be negligently enquired into, or when found evident, ought to be ſlightly cenſured.

3. And becauſe a ſcandal committed by a miniſter hath on theſe accounts many aggravations, and once raiſed, though it may be found to be without any ground, yet it is not eaſily wiped of; therefore a preſbytery

would exactly ponder by whose information and complaint it comes first before them, and a presbytery is not so far to receive the information, as to proceed to the citation of a minister, or any way begin the process until there be first some person, who under his hand gives in the complaint with some account of its probability, and undertakes to make out the libel. 2DO. or at least do before the presbytery undertake to make it out under the pain of being censured as slanderers, Or 3TIO. that the FAMA CLAMOSA of the scandal be so great, as that the presbytery for their own vindication see themselves necessitate to begin the process, without any particular accuser; but the presbytery in this case would be careful, first, to enquire into the rise, occasion, brotchers and grounds of this FAMA CLAMOSA.

4. All Christians ought to be so prudent and wary in accusing ministers of any censurable fault as that they ought neither to publish nor spread the fame nor accuse the minister before the presbytery without first acquainting the minister himself if they can have access thereto, and then, if need be, some of the most prudent of the Ministers and Elders of that presbytery, and their advice got in the affair.

5. If there shall be ground found to enter in a process against a Minister, the presbytery should first consider the libel, then order him to be cited, and to get a full copy, with a list of the witnesses names to be led for proving thereof, and a formal citation in write is to be made either personally or at his dwelling house, bearing a competent time allowed to give in answer to the libel, and his just defence and objections against witnesses, at least ten free days before the day of compearance, and the citation should bear the date when given, and the names of the witnesses to the giving thereof: and the execution bearing its date, with the names and designations of the witnesses should be made in writ and signed by the officer and witnesses, which being accordingly returned, he is to be called, and if he compear, the libel is to be read unto him, and he is to be enquired if he has any answers to give into the libel, that they may be read and considered, in order to the discussing of the relevancy, and if the presbytery find the same, and that there is cause to insist, they are to endeavour to bring him to a confession, whereby he may most glorify God; and if he confess, and the matter confest be of a scandalous nature, censurable in others such as the sin of uncleanness, or some other gross scandal, the presbytery (whatever be the nature of his penitency, though to the conviction of all) are INSTANTER to depose him AB OFFICIO, and to appoint him in due time to appear before the congregation where the scandal was given, and in his own parish, for removing the offence, by the public profession of his repentance.

6. If a minster be accused of any scandal, and cited to appear before his own presbytery, and do absent himself by leaving the place, and be contumacious without making any relevant excuse, after a new public citation and intimation made at his own church when the congregation is met, he is to be holden as confest, and to be deposed and censured INSTANTER with the lesser excommunication; but if after some time he doth not return and subject himself to the censures of the church, he may be proceeded against till he be censured with the greater excommunication, if the judicatory see cause for it.

7. If the miniſter accused do appear and deny the fact after the relevancy is found, the preſbytery proceeding to probation, and to find the truth of the matter, all the circumſtances are to be exactly canvaſſed, and the accused heard to object againſt the witneſſes. As also, he ſhould be allowed to be present at the examination, and modeſtly to cross interrogate, and then the reputation of the witneſſes and their hability duly regarded, and the examination conſidered. If after conſideration of all these, the judicatory ſhall find the scandal sufficiently proven; they are to proceed to cenſure, as advised in the case of confeſſion in paragraph 5th.

8. If the matter laid to the miniſter's charge be such practices as in their own nature manifeſtly subvert that order, unity and peace, which Chriſt hath eſtabliſhed in his church, or unſoundness and heterodoxy in doctrine, then great caution would be uſed, and the knowlege and underſtanding of witneſſes much looked into, and withal, if the errors be not groſs and ſtriking at the vitals of religion, or if they be not pertinaciouſly ſtuck unto, or induſtriouſly ſpread, with a viſible deſign to corrupt, or that the errors are not ſpreading among the people, then lenitives, admonitions, inſtructions, and frequent conferences are to be tried to reclaim without cutting off, and the advice of other preſbyteries ſought; and unleſs the thing be doing much hurt, ſo as it admits of no delay, the ſynod or general aſſembly may be adviſed with in the affair, and the ſame intimate to the miniſter concerned.

9. If the libel and complaint brought againſt a miniſter be a multitude of ſmaller things laid together, as ſeveral acts of negligence or other unſuitable actions, the preſbytery in proceeding therein are to make a preſbyterial viſitation of that pariſh to which the miniſter belongs, and at the ſaid viſitation, are firſt to ſee if any of theſe things now laid to the miniſter's charge, were committed PRIOR to the laſt preſbyterial viſitation of that pariſh, and whether they were then laid to his charge, and if they were not, it would be tried how they come to be laid to his charge now.

10. If the preſbytery find theſe things laid to his charge, to be committed ſince the laſt viſitation, or find a ſatisfying reaſon wherefore they were not then tabled, they are to enquire what diligence hath been uſed in acquainting the miniſter with the offence taken at theſe things when firſt committed by him, and how far the miniſter hath been guilty of giving offence, after he knew offence to be taken.

11. It would likewiſe in this caſe be enquired, whether any of the complainers did firſt in a prudent, private way inform any of the neighbour miniſters, of ſome of theſe things committed by their miniſter, who is now challenged, before theſe offences came to be ſo many, as to merit a public and ſolemn trial, and accordingly the preſbytery is to judge.

12. If the preſbytery find upon trial, the complaint to reſolve upon the miniſter's having committed ſuch acts of infirmity or paſſion, as conſidering all the circumſtances may be either amended and the people ſatisfied, and no ſuch offence taken, or at leaſt not to remain, ſo as to hinder the miniſter's profiting the people, and that the offence was taken by the miniſter's own people only or mainly; then the preſbytery is to take all prudent ways to ſatisfy and reclaim both miniſter and people, and do away the offence.

13. But before a miniſter depoſed for ſcandalous carriage can be reſtor-

ed to the exercise of the ministry, there would not only be convincing evidences of a deep sorrow for sin, but an eminent and exemplary humble walk, and edifying conversation, so apparent and convincing as hath worn out and healed the wound the scandal gave.

14. Immediately on the minister's being deposed by the presbytery, the sentence is to be intimate in his congregation, the church declared vacant, the planting thereof with another minister hastened, and never delayed on the expectation of his being reponed, it being almost impossible, that ever he can prove useful in that parish again.

CHAP. VIII.

Concerning Processes in order to the censure of the greater excommunication

SINCE there is a distinction betwixt the greater and the lesser excommunication, it seems that whatever have been the causes of the first Process, yet ordinarily all Processes that are in order to the greater excommunication are to be grounded on manifest contumacy, or obstinate continuance in scandalous practices; and where there is no manifest contumacy, or continuance as aforesaid, the lesser excommunication needs only have place. Yet in some extraordinary cases, the church according to scripture warrant hath summarly excommunicated persons guilty of nottour atrocious scandalous sins, to shew the church's abhorrence of such wickedness.

2. Even where there hath been a scandal delated, and contumacy following by not appearing, it would be considered, whether any scandalous practice hath been proven, or not, if not proven, then only the simple contumacy is to be proceeded against, for which it were hard to go a greater length than the lesser excommunication.

3. If the scandal hath been proven, and the censure of the lesser excommunication intimated as in chapter third; it seems most reasonable that there be no farther proceeding, unless the scandal be gross, or of any hainous nature, or that it is spreading and infectious, as in heresis or schism in the church. In which cases contumacy is to be proceeded against in order to the greater excommunication.

4. The kirk session having brought the Process to an intimation of the censure of the lesser excommunication, before they inflict the same, they are to refer the affair to the presbytery, bringing their whole proceedings before the presbytery in writ, that the presbytery may thereby have a clear and full view of the whole affair.

5. The presbytery finding the kirk session hath orderly proceeded, and that the lesser excommunication is not sufficient, and that the affair is so weighty as to oblige them to enter on the Process, they are to cause their officer to cite the scandalous person.

6. If the party appear, then the presbytery is to proceed in the enquiry at the accused, about the scandal alleged and libelled, and if he deny it, then they are to proceed and lead probation as in other cases.

7. But if the party appear not, but contemn the citation, the presbytery causeth renew the same, until he hath got three citations, and after the three citations he is to be cited out of the pulpit; and for the further conviction

of all concerned, intimation is to be made that the judicatory will proceed and enquire into the presumptions or probation of the guilt, and this is to be done although the delinquent be absent.

8. Then the presbytery is to order the minister of the congregation next Sabbath after forenoon's sermon, to acquaint the congregation what proceedings the kirk session first, and thereafter the presbytery hath made in the affair, and how contumacious the party was, and that the presbytery intended to proceed to the highest censure: and the minister is gravely to admonish the party (if present) to repent and submit himself to the discipline of the church, threatning him, if he continue impenitent, that the church will proceed, yea though he be absent, the minister is to acquaint the people, that the church requires him to repent and submit as abovesaid, under the foresaid certification.

9. There should be three public admonitions, and a presbytery should interveen betwixt each admonition; and if after all, that person continue impenitent or contumacious, the same is to be represented to the presbytery, who are thereupon to appoint public prayers thrice to be made in which the minister is to exhort the congregation seriously to join with him in prayer, for the scandalous, impenitent or contumacious person, which he is solemnly to put up to God humbly begging that he would deal with the soul of the impenitent, and convince him of the evil of his ways.

10. The public prayers of the church are to be put up three several Sabbath days, a presbytery (where its meetings are more frequent, once a month at least) interveening between each public prayer, both to shew the church's tenderness towards their lapsed brother, their earnestness to have him reclaimed, and likewise to create a greater regard and terror of that dreadful censure, both in the party and in all the people.

11. If after all, the scandalous person makes no application, but continue impenitent; the presbytery, after prayer, is to pass sentence, and appoint a minister to intimate the same, and to shew the presbyteries resolution to proceed upon such a Sabbath as they shall name, for pronouncing that dreadful sentence solemnly in face of the congregation, unless either the party or some for him, signify some relevant ground to stop their procedure.

12. That day being come, it were fit the minister did preach a sermon suited to that solemn occasion, or at least after sermon the minister should shew the congregation what he is going about, introducing the narrative of the Process, with a discourse concerning the nature, use and end of church censures, particularly that of the greater excommunication, if he hath not done it fully in his sermon.

13. The narrating all the steps of the Process in order, shewing the church's faithfulness and tenderness towards the scandalous person, and declaring his obstinate impenitency; and that now after all other means were used, there remained only that of cutting off the scandalous person from the society of the faithful, and intimating the church's warrant and order to him so to do.

14. And before the minister pronounce the sentence, he is to pray and desire all the congregation to join with him therein, that God would grant repentance to the obstinate person, would graciously bless his own ordinance,

and make the cenſure effectual, both to edify others, and to be a mean to reclaim the obſtinate ſinner.

15. Then after prayer, the miniſter is with great gravity and authority to pronounce the cenſure, ſhewing his warrant from our Lord's command, and the apoſtle Paul's direction, and recapitulating the presbytery's warrant in obedience thereunto, and reſuming the ſcandalous and obſtinate perſon's behaviour, whom he is to name; he therefore in the name and authority of our Lord and Maſter Jeſus Chriſt doth IN VERBIS DE PRÆSENTI pronounce and declare him or her excommunicated and ſhut out from the communion of the faithful, debarring that perſon from their privileges, and in the words of the Apoſtle, delivering that perſon over to Satan, which ſentence is to be intimate according to the 9th act of the aſſembly ANNO 1704.

16. If after prayer or before the cenſure he pronounced the ſcandalous perſon do make any public ſignification of his repentance, and of his deſire to have the cenſure ſtopt, the miniſter upon apparent ſeriouſneſs in the ſcandalous perſon, which he ſheweth to the congregation, may thereupon delay pronouncing the ſentence, till he report to the presbytery at their next meeting, who are then to deal with the ſcandalous perſon as they ſhall find cauſe.

17. After the pronunciation of this ſentence, the people are to be warned that they hold that perſon to be caſt out of the communion of the church, and that they ſhun all unneceſſary converſe with him or her, nevertheleſs excommunication diſſolveth not the bonds of civil or natural relations, nor exempt from the duties belonging to them.

18. Although it be the duty of paſtors and ruling elders to uſe all diligence and vigilance, both by doctrine and diſcipline reſpectively, for perverting and purging out ſuch errors, hereſies, ſchiſms and ſcandals as tend to the detriment and diſturbance of the church; yet becauſe it may fall out through the pride and ſtubornneſs of offenders, that theſe means alone will not be effectual to that purpoſe; it is therefore neceſſary after all this, to employ the aid of the civil magiſtrate, who ought to uſe his coercive power for the ſuppreſſing of all ſuch offences, and vindicating the diſcipline of the church from contempt.

CHAP. IX.

Concerning the order of proceeding to Abſolution.

IF after excommunication, the ſigns of repentance appear in the excommunicated perſon, ſuch as godly ſorrow, for having incurred God's heavy diſpleaſure by his ſin occaſioned grief to his brethren, and juſtly provoked the church to caſt him out of their communion, together with a full purpoſe of heart to turn from his ſin unto God through Chriſt, and to reform his life and converſation, with an humble deſire of recovering peace with God and his people, and to be reſtored to the favour of God and light of his countenance, through the blood of Jeſus Chriſt, and to the communion of the church, and the presbytery upon his application be ſatisfied therewith, and judge that he ought to be abſolved, and thereupon give warrant for his abſolution; he is to be brought before the congregation, and there alſo to make free confeſſion of his ſin and ſorrow for it, to call upon God for mercy in Chriſt, to ſeek to be reſtored to the communion of the church,

promiſing to God through grace, new obedience, and more holy and circumſpect walking as becomes the goſpel and that this appearance before the congregation, be as often as church judicatories ſhall find may be for edification and trial of the profeſſing penitent's ſincerity, and being ſatisfied in this, then the miniſter and congregation are to praiſe God, who delighteth not in the death of a ſinner, but rather that he ſhould repent and live; as alſo, for bleſſing the ordinance of excommunication, and making it effectual by his ſpirit to the recovering of this offender, to magnify the mercy of God through Jeſus Chriſt, in pardoning and receiving to his favour the moſt grievous offenders whenſoever they unfeignedly repent and forſake their ſins; but before the miniſter proceed to abſolution, he is to pray with the congregation to this effect: "That the Lord Jeſus Chriſt, Prophet, Prieſt and "King of his Church, who with the preaching of the goſpel hath joined the "power to bind and looſe the ſins of men, who hath alſo declared, that "whatſoever by his miniſters is bound on earth, ſhall be bound in heaven, "and alſo, that whatſoever is looſed by the ſame, ſhall be looſed and abſolved in heaven, would mercifully accept his creature N. whom Satan of long "time hath holden in bondage, ſo that he not only drew him to iniquity, "but alſo ſo hardened his heart, that he deſpiſed all admonitions, for the "which his ſin and contempt, the church was compelled to excommunicate him from the ſociety of the faithful; but now ſeeing the Holy Spirit by his grace hath ſo prevailed, that he is returned, and profeſſeth repentance toward God, and faith toward our Lord Jeſus Chriſt, that it "may pleaſe God by his Spirit and Grace to make him a ſincere and unfeigned penitent, and for the obedience of our Lord Jeſus Chriſt unto "death, ſo to accept of this poor believing and returning ſinner, that his former diſobedience be never laid to his charge, and that he may increaſe in "all godlineſs, ſo that Satan in the end may be trodden under feet by the "power of our Lord Jeſus Chriſt, and God may be glorified, the church "edified, and the penitent ſaved in the day of our Lord."

2. Then ſhall follow the ſentence of abſolution in theſe or the like words: "Whereas thou N. haſt for thy ſin been ſhut out from the communion of "the faithful, and haſt now manifeſted thy repentance, wherein the church "reſteth ſatisfied, I in the name of the Lord Jeſus, before this congregation, pronounce and declare thee abſolved from the ſentence of excommunication formerly denounced againſt thee, and do receive thee to the "communion of the church, and the free uſe of all the ordinances of "Chriſt, that thou mayeſt be partaker of all his benefits to thy eternal ſalvation."

3. After this ſentence of abſolution, the miniſter ſpeaketh to him as a brother, exhorteth him to watch and pray, and comforting him as there ſhall be cauſe; the elders embrace, and the whole congregation holdeth communion with him, as one of their own, and the abſolution ſhould be intimate in all the churches where the excommunication was intimate.

End of the Form of Proceſs.

AN ABRIDGMENT OF THE *ACTS OF PARLIAMENT* RELATING TO THE CHURCH OF SCOTLAND, FROM THE REFORMATION TO THE PRESENT TIMES.

BLASPHEMY.

SWEARERS of abominable oaths to be fined and puniſhed as follows: For the firſt fault, every Prelate of Kirk, Earl, or Lord, four ſhillings; a Baron or beneficed man, conſtituted in dignity eccleſiaſtical, twelve pennies; a landed-man, freeholder, vaſſal, feuer, burgeſs, and ſmall beneficed man, ſix pennies; the poor folks, that have no gear, to be put in the ſtocks, joggs, or impriſoned for the ſpace of four hours: And women to be weighed and conſidered according to their blood, and eſtate of their parties that they are coupled with. For the ſecond fault, every Prelate, Earl, or Lord, aucht ſhillings; every Baron, or beneficed man in dignity, twa ſhillings; every landed man, vaſſal, feuer, and ſmall beneficed man, twelve pennies; and every craftſman, yeoman, or ſervant, aucht pennies; the ſpace of the poor folks impriſonment to be doubled. For the third fault the ſaid ſecond pains to be doubled; and, for the fourth and laſt fault, the offenders to be baniſhed or put in ward for the ſpace of year and day at the King's will. And ſick like, all other eſtates after their quality to be puniſhed effeirandly, and the foreſaid pains to be uptaken and applied to the uſe of the poor folks. James VI. 1581.

COMMUNION.

THE parſons of all pariſh kirks ordained to furniſh bread and wine for communion, James VI. 1572. Every pariſh kirk ordained to be provided with baſons, and lavoirs for the miniſtration of the Sacrament of baptiſm, and of cups, table, and table-cloaths for the miniſtration of the holy Communion at the expence of the pariſhoners. The ſame to be received by the miniſter for that uſe; and he, his heirs and executors to be liable

for them in caſe they be loſt, or put to a profane uſe, James VI. 1617. All Subjects appointed to communicate once every year, James VI. 1600.

CONFESSION OF FAITH.

THE Confeſſion of Faith ratified, and all Acts of Parliament contrary to it, reſcinded, James VI. 1567. All laws, ſtatutes, and acts of parliament made againſt Popery and Papiſts revived, ratified and perpetually confirmed; and the Weſtminſter Confeſſion of Faith voted and approved by parliament, as the public and avowed Confeſſion of this church. W. and M. 1690.

CONGREGATION.

WHATSOMEVER perſon makes perturbation or impediment in the kirk, and will not deſiſt therefrom, ſhall incur the pains as after follows: for the firſt fault, a Prelate, Earl or Lord, ten pound; a Baron or perſon conſtituted in dignity eccleſiaſtical, five pound; a vaſſal, freeholder, burgeſs or ſmall beneficed perſon, fourty ſhillings, and poor folks that have nae gudes, to be put in priſon for fifteen days, to faſt on bread and water; and for the ſecond the doubling thereof, and for the third fault, warding of their perſons, or baniſhment for year and day. Bairns that perturb the kirk, to be leiſhed: May 1551. The perturbing of the order of the kirk in the time of divine ſervice to be a point of dittay, and the perſons convicted thereof to tyne all their moveable gudes, which ſhall be eſcheated to our Sovereign Lord: James VI. 1587.

FORNICATION.

ALL perſons who commit the filthy vice of Fornication, and are convicted thereof, ſhall be puniſhed in manner following: for the firſt fault the man as well as the woman ſhall pay the ſum of fourty pound, otherwiſe both ſhall be impriſoned for the ſpace of eight days, and be fed on bread and ſmall drink, and afterwards ſhall be preſented at the market-place of the town or pariſh bare-headed, and there ſtand faſtened for the ſpace of two hours: For the ſecond fault they ſhall pay the ſum of an hundred marks, otherwiſe the days of their impriſonment ſhall be doubled, and their food ſhall be bread and water allenarly; and in the end they ſhall be preſented at the market-place, and the heads of both ſhall be ſhaven: For the third fault they ſhall pay an hundred pounds, or elſe their impriſonment ſhall be tripled, and their food be bread and water allenarly; and in the end they ſhall be taken to the deepeſt and fouleſt pool or water of the town or pariſh, and be there thrice dowked, and afterwards baniſhed the town or pariſh forever. The pecunial pains which ſhall be received, ſhall be keeped in a cloſe box and converted AD PIOS USUS in the parts where the crime was committed, James VI. 1567. 1649. 12.

All laws and acts of Parliament againſt Fornication and uncleanneſs renewed and confirmed: W. and M. 1690.

All laws and acts of Parliament againſt Fornication and profaneneſs again revived and ratified, and perſons guilty of it ordained to be proſecuted, and the fines impoſed to be inſtantly paid to the pariſh collectors for the poor,

or the party to be imprisoned till sufficient caution be found for the payment of them; and no pretence of different persuasion in matters of religion, shall exeem the delinquent from being censured and punished for such immoralities. W. 1696. Oct. 9th.

GLEBE.

MINISTERS shall pay no tiend for their Glebes or kirklands extending to four acres of land, James VI. 1578.

The acts of Parliament anent manses and Glebes extended to Abbays and Cathedral kirks, so that ministers presently admitted, or who shall hereafter be admitted to the office of the ministery within said kirks, shall have four acres of land lying most contiguous to the manse, and which before pertained to the abbay or to any member thereof. James VI. 1582.

Where there has been no Glebe of old, or where it has been within the quantity of four acres; the designation shall be made out of the parson, vicar, abbot or prior's lands: and failing thereof, out of the bishop's lands, friar's lands, or any other kirk lands lying within the bounds of the said parish, James VI. 1593.

Where there are no kirklands within the parish, or where the same are mortified to universities, schools or hospitals, it shall be lawful to design a Glebe to the minister out of any other land, or out of grass where there is no arable land, most commodious and neareſt to the kirk. And the whole heritors of the parish must contribute proportionally for a recompence to the heritor whose land is designed for the Glebe, viz. heritors of kirk-lands when kirk-lands are designed; and all the heritors of the parish when other lands are designed. 1644. 31.

It is specially provided, that in all designations of Glebes, incorporate acres in village or town where the heritor hath houses and gardens shall not be designed, he giving always other lands neareſt to the kirk. Cha. II. 1663.

NOTE. Trees growing upon the Glebe are the property of the minister, and may be disposed of by him for his own advantage. Humbie, 1791.

GOVERNMENT OF THE CHURCH.

IT shall be lawful to the Kirk and Ministers, every year at least, and oftener, PRO RE NATA, as occasion shall require, to hold General Assemblies, providing that the King's Majesty or his Commissioners with them to be appointed by his highness, be present at every General Assembly, before the dissolving thereof, and nominate and appoint time and place, when and where the next General Assembly shall be holden; and in case neither his Majesty nor his said Commissioners be present for the time in that town where the General Assembly is holden, then, and in that case, it shall be lawful to the said General Assembly, by themselves, to nominate and appoint time and place where the next General Assembly of the Kirk shall be kept and holden. Synodical and Provincial Assemblies appointed to be holden by the said Kirks and Ministers twice every year, as they have been and are in use presently to do. Presbyteries, and particular Sessions, appointed by the said Kirk, ratified and approved with the hail jurisdiction and discipline thereof. James VI. 1592.

Epiſcopal form of Church Government aboliſhed, and all civil power conferred upon eccleſiaſtical perſons declared unlawful, 1640. 4.

The ſtate of Biſhops reſtored to their ancient places and undoubted privileges in Parliament, and to all other accuſtomed dignities, privileges, and juriſdictions; and to the exerciſe of their epiſcopal functions, preſidence in the Church, power of ordination, inflicting of cenſures and all other acts of Church diſcipline which were to be performed with advice and aſſiſtance of ſuch of the Clergy as were of known prudence and loyalty. Cha. II. 1662.

A national Synod or Aſſembly conſtituted, and the members of whom it is to conſiſt, and the matter of which it is to treat, appointed. Ch. II. 1663.

Prelacy aboliſhed, and all ſuperiority of any office in the Church above Preſbyters, declared to be a great and inſupportable grievance to this nation, and contrary to the general inclinations of the people. W. and M. 1689.

The Preſbyterian Church Government and Diſcipline ratified and confirmed, that is to ſay, the Government of the Church by Kirk Seſſions, Preſbyteries, Provincial Synods, and General Aſſemblies. W. and M. 1690.

The Preſbyterian form of Church Government and Diſcipline further ratified and confirmed. W. 1700. Q. Ann, 1702, and 1703.

The ſame eſtabliſhed and confirmed, and declared that it ſhall continue without any alteration to the people of this land in all ſucceeding generations. The Preſbyterian Government declared to be the only Government of the Church within the kingdom of Scotland; and that purſuant to the claim of right it ſhall remain and continue unalterable; and that none of the ſubjects of this kingdom ſhall be liable to, but that all and every one of them ſhall be forever free of an oath, teſt, or ſubſcription within this kingdom that is contrary to, or inconſiſtent with the foreſaid true Proteſtant Religion and Preſbyterian Church Government, Worſhip, and Diſcipline as above eſtabliſhed. Q. Ann. 1707.

JURISDICTION OF THE CHURCH.

THE examination and admiſſion of Miniſters declared to be only in the power of the Kirk now openly and publicly profeſſed within this realm. James VI. 1567.

All ſchools to burgh and land, all univerſities and colleges appointed to be reformed, and that none be admitted to have charge and cure thereof in time coming, nor to inſtruct the youth privately or openly, but ſuch as ſhall be tried by the ſuperintendants and viſitors of the Kirk. James VI. 1567.

The Juriſdiction of the Kirk declared to conſiſt in the preaching of the true word of Jeſus Chriſt, correction of manners, and adminiſtration of the holy ſacraments; and that there is no other face of Kirk, nor other face of religion, than is preſently by the favour of God eſtabliſhed within this realm; and that there is no other Juriſdiction eccleſiaſtical acknowledged than that which is, and ſhall be within the ſame Kirk. James VI. 1579.

As the Juriſdiction and Judicatories of the Church are confirmed and eſtabliſhed in General Aſſemblies, in Synods, in Preſbyteries, and in the particular Seſſions of every Kirk and pariſh; and as a number of obſtinate and ſtubborn people in different pariſhes of the land have contemned and daily

contemn the ſentences of ſaid Aſſemblies and Judicatures of the Kirk, eſpecially in landward pariſhes where there is little or no concurrence of magiſtrates to puniſh obſtinate and diſobedient perſons; therefore it is ordained, that in caſe any of the ſubjects within this realm, refuſe to obey the decreets of ſaid Aſſemblies and Judicatures in any time to come, the ſaid Judicatures ſhall direct their beedle to the perſon or perſons diſobedient, charging and commanding them, in the name of God and of the King, to obey their decreet; and if the ſaid charge be contemned, the Miniſter of the pariſh where the perſon or perſons ſo doing reſide, ſhall three ſeveral Sabbath days, from the pulpit, charge and command them in the name of God and of the King, to obey. And if the perſon or perſons ſo charged, remain ſtill obſtinate and rebellious, then ſhall the Aſſembly of Judicature, which has made the decreet, refer the matter to the Lords of Seſſion by their ſupplication, containing the ſubſtance of the proceſs; and, if the party complained of, compear not after citation, the Lords of Seſſion or Secret Council ſhall give out letters to put him to the horn within ten days after the charge. James VI. 1593.

All ſchoolmaſters and teachers of youth in ſchools ſhall be liable to the trial, judgment, and cenſure of the Preſbyteries of the bounds for their ſufficiency, qualifications, and deportment in ſaid office. W. and M. 1693.

KIRK AND KIRK-YARD.

PARISH Kirks, after being ſufficiently mended in windows, thack, and other neceſſaries, appointed to be upholden upon the expences of the pariſhioners and Parſon in manner following; the two part of the expences thereof to be made by the pariſhioners, and third part by the Parſon, and that the ſame might take effect, letters appointed to be directed to the officers of the Queen, ſheriffs in that part, to paſs and charge the pariſhioners of the pariſh kirks within the realm, to elect and chuſe certain of the moſt honeſt qualified men within their pariſhes, to tax every one of them according to their ſubſtance, for furniſhing of the two-part of the expences to be made in bigging and repairing of their ſaid pariſh kirk. Secret Coun. 13th September 1563.

As the act of Secret Council for upholding and reparing of Kirks had not been executed in any place, the ſame ratified and approved by Parliament, and the Archbiſhop, Biſhop, Superintendant, or Commiſſioner of the Kirks in time of their viſitation, appointed to nominate in every pariſh perſons for making and ſetting of the taxation, and for receiving the ſame. James VI. 1572.

N. B. The Miniſter has no right to paſture the Church-yard; but he may cut the graſs upon it for his horſe or cows, and may prevent others from doing it. FORBES on Church Lands, page 215. Dec. 2d, 1778, HAY againſt WILLIAMSON.

MANSE.

Former acts of Parliament anent Manſes and Glebes extended to all abbeys and cathedral kirks within the realm; ſo that the miniſter preſently admitted, or who ſhall hereafter be admitted to the office or cure of the miniſtry within the ſaid kirk, ſhall have a ſufficient Manſe, and dwelling-place

within the abbey where he ſerves, with ſpecial proviſion, that it ſhall be in the option of the Abbots, Priors, and other Prelates and perſons whatſoever, feuars of the ſaid cathedral and abbey places, either to grant an Manſe to the Miniſter, within the precincts of their place, or elſe an ſufficient Manſe lying as commodious to the pariſh kirk. James VI. 1592.

All archbiſhops, biſhops, or other eccleſiaſtical perſons ordained to build, repair and maintain their houſes and Manſes in ſuch caſe, as may ſerve for their dwelling, and the dwelling of their ſucceſſors: and if they ſhould ſuffer their Manſes to ruin and decay, their ſucceſſors allowed to have action againſt their executors for the ſame. Where the ſaid houſes ſhould be ſuffered to decay, or ſhould be rebuilt and repaired by any beneficed perſon, his ſucceſſor obliged to give ſatisfaction to the heirs and executors of the defunct at the ſight of two or three of the biſhops within the province, providing that the ſame ſatisfaction did not exceed a thouſand pounds if prelates, and five hundred merks if inferior miniſters. James VI. 1612.

N. B. When a Manſe is built or ſufficiently repaired, the heritors may apply to the Preſbytery to declare it a free Manſe; and their declaration will lay the incumbent under an obligation of taking care that it ſuffer no injury from his negligence; but it will not bind him or his executors to make up the loſs ariſing by the neceſſary decay of the building from the waſte of weather and of time. Feb. 2d, 1786. Heritors of Cairnie againſt Preſbytery of Strathbogie. Erſkine's Inſtitutes, Tit. 5.

MARRIAGE.

WHATSOEVER perſon or perſons ſhall hereafter Marry or procure themſelves to be Married in a clandeſtine and inorderly way, or by Jeſuit Prieſts, or any other not authoriſed by this Kirk, ſhall be impriſoned for three months; and beſide their ſaid impriſonment ſhall pay, each nobleman one thouſand pounds Scots; each baron and landed gentleman one thouſand merks; each gentleman and burgeſs five hundred pounds; each other perſon one hundred merks, and ſhall remain in priſon ay and while they make payment of theſe reſpective penalties above mentioned, which are ordained to be applied to pious uſes within the ſeveral pariſhes where the ſaid perſons dwell. The celebrator of ſuch Marriage ſhall be baniſhed, and never again to return under pain of death. Thoſe who have their ordinary reſidence in Scotland prohibited from getting themſelves married with others within the kingdom of Ireland or England without prolamation of banns in Scotland under the pains following: for each nobleman one thouſand pounds; for each landed gentleman one thouſand merks; for each burgeſs five hundred pounds; and for each other ſubſtantious perſon five hundred merks; for an yeoman one hundred pounds; and for each perſon of inferior quality one hundred merks, the one half of which penalties to belong to the King's Majeſty, and the other to the pariſh or pariſhes where the married perſons reſided. His Majeſty's Advocate and procurator of the church appointed to purſue the contraveeners of this act before the civil judge. Poor perſons who cannot pay to be puniſhed with ſtocks and irons. Cha. II. 1661.

MINISTERS.

ECCLESIASTICAL persons required to find surety that they shall leave their benefices at their decease and dismission, unhurt or vitiated in the quantity of yearly rent thereof; and in case any of the said persons provided to the said benefices shall happen to do otherwise, and by any feus, tacks, pensions, or changing of victual for money, or any other disposition shall make their benefice in worse state than the same was at their entry thereto, such setting and disposition shall be of no avail, force or effect. James VI. 1585.

Where any person is admitted to more benefices having cure, the acceptation of the last shall be sufficient cause of deprivation from the remanent. Also persons in the function of the ministry who shall happen to be lawfully and orderly convicted before our Sovereign Lord's Justice General or other judges competent of capital crimes, such a treason, slaughter, mutilation, adultary, incest, theft, common oppression, usury against the laws of the realm and prejury, and being lawfully and orderly deprived from their function in the ministry by their Ordinary or King's Commissioners in ecclesiastical causes, shall be deprived of their benefices. James VI. 1584.

Ordained that all ministers shall attend upon their own charges and vocation, to the comfort and edification of the flocks committed to them; and that none of them presently in the ministry, or who shall hereafter be admitted thereto, shall in any way accept, use or administer any place of judicature, in whatever civil or criminal causes, neither be of the College of Justice, Commissioners, Advocates, Court Clerks, or Notars in any matters, (the making of testaments only excepted) under the pain of deprivation from their benefices, livings, and function. James VI. 1584.

Whatsoever person shall invade any minister, or put any violent hands on him, for seeking his living, or for discharge of his duty, shall be punished for the same with all rigour, and incur the pains of losing all their moveable goods albeit no slaughter or mutilation follow thereupon. The one half of said moveable goods to be applied to the Sovereign's use, and the other to the use of the party offended. James VI. 1587.

Sentence of deprivation pronounced by any presbytery, synodal or general assemblies ordained to have the effect of depriving from the profits, commodities, rents and duties of the benefice; and to be sufficient cause for making the said benefice vacant: and the said sentence being extracted and presented to the patron, he shall be bound to present a qualified person of new to the kirk, within the space of six months, which if he fail to do, the right of presentation for that time shall be devolved into the hands of the presbytery within which the benefice lies. James VI. 1592.

Appointed, that every preacher of God's word hereafter shall wear black, grave and comely apparel, beseeming men of their state and profession. James VI. 1609.

Each minister who shall blaspheme, swear or curse, or who shall drink to excess, shall be fined in the fifth part of his year's stipend, to be uplifted and disposed upon as appointed by the act and instructions anent justices of the peace. Charles II. 1661.

That no perſon be admitted or continued hereafter to be a miniſter or preacher within this church, unleſs that he, having firſt taken and ſubſcribed the oath of allegiance, and ſubſcribed the aſſurance, do alſo ſubſcribe the confeſſion of faith, declaring the ſame to be the confeſſion of his faith, and that he owns the doctrine therein contained, to be the true doctrine which he will conſtantly adhere to. As likewiſe that he owns and acknowledges Preſbyterian Church government, to be the only government of this church, and that he will ſubmit thereto, and concur therewith, and never directly or indirectly endeavour the prejudice or ſubverſion thereof. W. and M. 1693.

Every miniſter and preacher, as well of the eſtabliſhed Church of Scotland, as of the Epiſcopal communion, ſhall, during the exerciſe of divine ſervice, pray in expreſs words for the Queen and all the Royal family, under the penalties of 20l. Sterling, for the firſt offence, and of deprivation for three years for the ſecond, 10 Ann. 6.

PATRON; AND RIGHT OF PRESENTATION.

PRESENTATION to laick Patronages reſerved to the juſt and ancient Patrons who are required to preſent an qualified perſon within ſix months (after the deceaſe of him who bruiked the benefice before, comes to their knowledge) to the ſuperintendent of theſe parts where the benefice lies, or to others having Commiſſion of the kirk to that effect: otherwiſe the kirk to have power to diſpoſe the ſame to a qualified perſon for that time. Provided that in caſe the patron preſent an perſon qualified, and failing one, another within the ſix months, and the ſaid ſuperintendent or Commiſſioner of the kirk refuſe to receive and admit the perſon preſented by the Patron, it ſhall be lawful for the Patron to appeal to the ſuperintendent and miniſters of that province where the benefice lies; and if they refuſe to admit the perſon preſented, it ſhall be lawful for the Patron to appeal to the General Aſſembly of this whole realm by whom the cauſe ſhall be finally decided, James VI. 1567.

All benefices of cure under prelacies ſhall be preſented to, by our Sovereign Lord and laick patrons, in favour of able and qualified miniſters. James VI. 1581.

All preſentations to benefices in time coming, appointed to be directed to particular preſbyteries, with full power to give collation thereupon; and the ſaid preſbyteries bound and aſtricted to receive and admit whatever qualified miniſter was preſented by his Majeſty or laick Patrons. James VI. 1592.

Ordained that all patrons or perſon whatſoever, who hath, or who pretends any right to the preſentations to any patronges, vicarage, or other benefices of cure, kirks or modified ſtipends, be careful to grant preſentations to ſuch perſons only as ſhall give ſufficient evidence of their piety, loyalty, literature, and peaceable diſpoſition; and ſhall, in preſence of the patron or his attorney, and of the ſheriff of the ſhire, ſteward of the ſtewartry, or heritable baillie, or commiſſary of the bounds, if it be in the country; and of the magiſtrates of the burghs, if within burgh, before the granting and their accepting the preſentation, take and ſubſcribe the oath of allegiance, the ſaid ſheriff, ſteward. baillie, commiſſary, and magiſtrates, having firſt taken

the oath themſelves; and if any perſon who hath not ſo taken the oath of allegiance, ſhall be preſented by any patron, not only ſhall the preſentation be void and null of itſelf, but the right of the patronage as to that vacancy ſhall belong to his Majeſty. Charles II. 1661.

Patrons reſtored to the poſſeſſion of their advocations, donations, and patronages. Charles II. 1662.

The right of preſentation taken from patrons, and ordained, that in caſe of the vacancy of any particular church, the heritors of the ſaid pariſh being Proteſtants and elders, are to name and propoſe the perſon to the whole congregation, to be either approven or diſapproven by them; and if they diſapprove, that the diſapprovers give in their reaſons, to the effect the affair may be cognized upon by the preſbytery of the bounds, at whoſe judgment the calling and entry of a particular miniſter is to be concluded. And if application be not made by the elderſhip and heritors of the pariſh for the call and choice of a miniſter within ſix months after the vacancy, then the preſbytery may proceed to provide the ſaid pariſh, TANQUAM JURE DEVOLUTO. The calling of miniſters to royal burghs, where there is no landward pariſh, to be by the magiſtrates, town-council, and kirk-ſeſſion of the burgh, as was the caſe before 1660. But where a conſiderable part of the pariſh is in landward, the call ſhall be by the magiſtrates, town-council, kirk-ſeſſion, and heritors of the landward pariſh. In recompence of the ſaid right of preſentation, ordained, that the heritors and life-renters of each pariſh, and the town-councils for the burgh, pay to the ſaid patrons, the ſum of ſix hundred merks proportionally, effeiring to their valued rents in the ſaid pariſh, viz. two parts by the heritors, and a third part by the liferenters, deducing always the patron's own part, effeiring to his proportion as an heritor; and that upon the ſaid patron's granting a ſufficient and formal renunciation of the ſaid right of preſentation in favour of the ſaid heritors, town-council for the burgh, and kirk-ſeſſion. Wm. and Mary, 1690.

Enacted, that the right of the tiends of the pariſhes which are not heritably diſponed, ſhall belong to the patron, with the burden always of the miniſter's ſtipends, tacks, and prorogations already granted of the tiends and of ſuch augmentations of ſtipends, future prorogations and erecting of new kirks as ſhall be found juſt and expedient. W. and M. 1690.

The above act repealed, ſo far as it relates to the preſentation of miniſters by heritors and others therein mentioned; and declared lawful for patrons who have not ſubſcribed a formal renunciation of their right, to preſent a qualified miniſter, whom the preſbytery is obliged to receive and admit in the ſame manner as thoſe preſented before the making of this act ought to have been admitted. Every patron at his ſinging of a preſentation, obliged to take the oath of abjuration, otherwiſe the preſentation to be void and null, and the right of preſenting and of diſpoſing the vacant ſtipend to belong for that time to her Majeſty. 10. Ann 11.

Where the patron delays for ſix months after a vacancy, to preſent a qualified miniſter, the right of preſentation ſhall belong to the Preſbytery for that vacancy, TANQUAM JURE DEVOLUTO. 10. Ann 11.

If a patron ſhall preſent to a vacant church any perſon who is not qualified by having taken the oaths, to government, or ſhall preſent a perſon who

is miniſter of any other church or pariſh, or a perſon who ſhall not accept, or declare his willingneſs to accept of the preſentation and charge to which he is preſented, ſuch preſentation ſhall not be accounted any interruption of the courſe of time allowed to the patron for preſenting, but the JUS DEVOLUTUM ſhall take place as if no ſuch preſentation had been offered. 5. George I. 28.

POOR.

AN inquiſition appointed to be made concerning all aged poor, impotent, and decayed perſons, in every pariſh who were born in it, or who have had their moſt common reſidence in it for the laſt ſeven years paſt, and a regiſter book to be made containing their names which ſhall remain with the provoſt and bailies in burgh, and with the juſtice in every pariſh to landwart: ordained that houſes be provided for ſuch poor people, either ſeparately or with others, and that the whole inhabitants of the pariſh be taxed and ſtented according to their ſubſtance for ſuch weekly charge and contribution, as ſhall be thought ſufficient to ſuſtain the ſaid poor people: That collectors be yearly appointed for collecting and receiving the ſaid taxation, and for diſtributing the ſame, by the orders of the ſaid magiſtrates and judge: That the ſtent roll be renewed every year, becauſe of the alterations that may happen. Such of the poor as are not altogether diſabled, ſhall be put to work by the overſeers of the poor, to be named along with the collectors by the ſaid magiſtrates and judge, and if they refuſe to work, they ſhall be ſcourged, and put in the ſtocks; and, for the ſecond fault, ſhall be puniſhed as vagabonds. James VI. 1579.

The above act ratified, and in caſe the ſheriffs or other judges be found negligent, power given to the miniſters, elders, and deacons within the bounds of every pariſh to nominate one or two, or more perſons, who are appointed juſtices and commiſſioners to the effect of executing the ſaid act of Parliament. James VI. 1592.

The Acts of Parliament formerly made againſt ſtrong Beggars and Egyptians, ratified; and in place of ſeveral commiſſions in landward, which were to be granted by the King for the execution thereof, power granted to the particular ſeſſion of the kirk for that purpoſe. James VI. 1597.

To the effect his Majeſty may be the better aſſured of the care and diligence of the Kirk Seſſion in the execution of the ſaid act of parliament, the haill preſbyteries within the realm appointed to take trial of the reſpective Kirk Seſſions, and to report the ſame to his Majeſty's Miniſters; and the penalty of 20l. to be exacted from every Kirk Seſſion, ſo often as found negligent. James VI. 1600.

The juſtices appointed twice a year on the firſt of December, and the firſt of June, to take up a liſt of the poor in every pariſh; and in every pariſh ſhall appoint two or more overſeers of the poor, who are to inroll all perſons truly indigent, to provide them convenient houſes, and upon conſidering what the neceſſary maintenance will extend to weekly, to call for the collections of the pariſh, or other ſums appointed for the maintenance of the poor, to be diſtributed by them among the inrolled poor, as their neceſſities may require it. The juſtices empowered every ſix months, to call before

them the overſeers, and to take account from them how they have diſcharged their truſt. Charles II 1661.

Conſidering that the chief cauſe why the acts about the poor have proved ineffectual, and that vagrants and idle perſons, do yet ſo much abound, hath been that few or no common works were then erected, and that now common works for manufactures of divers ſorts are ſetting up in this kingdom; therefore declared lawful to all perſons or ſocieties who have, or ſhall ſet up any manufacture, to ſeize and apprehend any vagabonds, who ſhall be found begging, or who being maſterleſs and out of ſervice, have not wherewith to maintain themſelves by their own means and work, and to employ them for their ſervice as they ſhall ſee fit; the ſame being done with the advice of the reſpective magiſtrates of the place where they ſhall be ſeized; and ordains the pariſhes where ſuch idle perſons as ſhall be found begging, were born, or where they have had any reſidence, haunt, or moſt reſort for the ſpace of three years immediately preceding their being ſo apprehended, to make payment to the perſons or ſocieties who ſhall happen to employ them, of two ſhillings Scots per diem for the firſt year after they are apprehended; and of one ſhilling Scots for the next three years: the one half thereof to be paid by the heritors of the ſeveral pariſhes reſpectively, and the other half to be paid by the poſſeſſors and inhabitants dwelling upon the ground of each heritor reſpectively.

Further, the heritors of each pariſh, or as many of them as happen to meet, upon public intimation made at the pariſh kirk upon any Sabbath at the diſſolving of the congregation from the firſt ſermon, by any of the heritors of the pariſh, or by the employers of the poor, are ordained to make up a ſtent roll for maintenance of the poor of the pariſh who ſhall be employed as ſaid is, at the rate foreſaid; the one half to be paid by the heritors, either according to the old extent of their lands within the pariſh, or according to the valuation by which they laſt paid aſſeſſment, or otherwiſe as the major part of the heritors ſo meeting ſhall agree: wadſetters and liferenters during their rights, being liable as heritors; and the other half to be laid upon the tenants and poſſeſſors, according to their means of ſubſtance; and in caſe the ſaid heritors, being required by any perſon or ſociety employing the poor as ſaid is, ſhall fail to make up and deliver a ſtent roll in manner foreſaid, the ſaid perſon or ſociety are empowered to charge the heritors o each pariſh for two ſhillings Scots per diem for each one of their poor, whereof they ſhall be relieved in manner foreſaid. Which ſtent roll ſhall continue for one year after the making up thereof, either by the heritors, or by the perſon or ſociety employing the poor, and ſhall be renewed from year to year during the years above written. Charles II. 1663.

To the end it might be known what perſons were to be ſent to correction houſes, and who were to be entertained by the contributions at the pariſh kirks for the poor, the miniſters of every pariſh, with ſome of the elders, and in caſe of vacancy, three or more of the elders, ordered to take up an exact liſt of all the poor perſons within their pariſhes, by name and ſurname, condeſcending upon their age and condition, where they were born, and in what pariſhes they have moſt haunted during the laſt three years preceding the up-

taking of theſe liſts: intimation being always made to the whole heritors of the pariſh to be preſent, and to ſee the liſts taken up; that the heritors and the poſſeſſors of their land, who are to bear the burden of the maintenance of the poor perſons of each pariſh, or any of them who ſhall meet with the ſaid miniſters and elders may condeſcend upon ſuch as through age and infirmity are not able to work, and appoint them places wherein to abide, that they may be ſupplied by contributions at the pariſh kirk. And if the ſame be not ſufficient to entertain them, that they give them a badge or ticket to aſk alms at the dwelling houſes of the inhabitants of their own pariſh only. And in caſe any heritors ſhall find within their bounds any other vagabonds, beggars or idle perſons not being in ſervice, not having any viſible way or ſtock to entertain themſelves, who were not born, nor did haunt formerly within their bounds, they are hereby empowered to ſeize upon ſuch perſons, and to ſend them to the correction houſes, and to charge the magiſtrates or maſters of ſaid houſes to receive them, without advance of any allowance: with power notwithſtanding to the ſaid magiſtrates or maſters, to charge the heritors of the pariſhes where theſe idle perſons were born, or have moſt haunted the laſt three years, for the allowance of ſuch of them as are not bred to work. Charles II. 1672.

The heritors, miniſter and elders of every pariſh, required to make a liſt of all the poor within the pariſh, to liquidate yearly a ſum for their maintenance, the one half to be paid by the heritors, the other half by the other houſe-holders, with power to appoint two overſeers yearly for collecting the ſaid maintenance. Such poor as are not provided with houſes, to be provided at the expence of the pariſh: and the heritors to put to work any of the poor who can work, either within the pariſh or in any adjacent manufactory. The heritors, miniſter and elders of every pariſh, appointed to meet the firſt Tueſday of February, and the firſt Tueſday of Auguſt yearly to conſult and determine in the above matters for every enſuing half year; and to appoint overſeers by the year or half year as they ſhall think fit. Privy Council. 1692.

The half of the collections at the church door to be paid to the heritors, or to any by them appointed, and to be applied towards the maintenance of the poor. Privy Council 1693. 29th Auguſt.

Whoever ſhall give alms to any beggar not of the pariſh and ſhall not ſeize the ſame to be ſent back to his own pariſh, ſhall, by the overſeers be fined in twenty ſhillings to be applied to the uſe of the poor. Privy Council 1692.

Acts of Parliament and Proclamations of Council for repreſſing beggars revived and approved. W. 1695. and 1698.

Note. It is now underſtood that three years reſidence alone in a pariſh will not give a poor perſon any title to a maintenance from it: to qualify him properly for that right, it is neceſſary that during his three years reſidence, he has been able to ſupport himſelf by his own labour and induſtry.

The Kirk-Seſſion alone has the right of keeping and hiring out Mortcloths for the benefit of the poor. Auguſt 10th, 1759. Turnbull againſt M. Law.

FINIS.

J. FINDLAY PRINTER.

THE INDEX.

BOOK I.

TITLE. PAGE.

I. Of the Election and Ordination of Paſtors. - 1
II. Of Tranſportation and Admiſſion of Miniſters. - 11
III. Of Acts of Tranſportation, of Dimiſſions, and Miſſions, and Colleague Miniſters. - 16
IV. Of Expectants, and alſo of Students and Burſars. - 19
V. Of School-Maſters, and Inſtructors of Youth. - - 25
VI. Of Doctors and Profeſſors of Theology. - - - 26
VII. Of Ruling Elders. - 28
VIII. Of Deacons. - 30
IX. Of Moderators of Church Judicatories. - - - 31
X. Of Clerks, Readers and Precentors. - - - - 32
XI. Of Church Seſſions. - 34
XII. Of Preſbyteries. - 36
XIII. Of Parochial Viſitations by the Preſbytery. - - 39
XIV. Of Provincial Synods. 44
XV. Of Extraordinary Synods, and General Aſſemblies. - 45
XVI. The Order of the Rolls of Church Judicatories, and Ranking of Church Office-Bearers, and of Her Regiſters. - - 60
XVII. Of Viſitations of Schools and Univerſities. - 63
XVIII. Of a General Council of Proteſtants. - - 65

BOOK II.

TITLE PAGE.

I. Of Lecturing, Preaching, Catechiſing, Public Prayers before and after Sermon, Singing of Pſalms, and Miniſterial Benediction. - - - 67
II. Of Family Worſhip. - 77
III. Of Baptiſm. - - 79
IV. Of the Lord's Supper. 85
V. Of the Solemnization of Marriage. - - - 93
VI. Of Viſitation of the Sick. 99
VII. Of Burial of the Dead, Lykewakes, and Dirges. - 101
VIII. Of Miniſterial Viſitation of Families. - - 102
IX. Of Sanctification of the Lord's Day, and obſerving Faſt and Thankſgiving Days. - 104
X. Of Collections and Recommendations for the Poor. - 108
XI. Of Proviſion for Schools and Univerſities. - 109
XII. Of the Immunity and Union of Churches. - - 110
XIII. Of Churches, Church-dykes, Manſes, Yards, Glebes, Bells, Utenſils, Ornaments, Books, and High Roads to Churches. 112
XIV. Of Tithes, Stipends, and Mortifications. - 115

BOOK III.

I. Of Apoſtacy, and Atheiſtical Opinions of Deiſts. 121
II. Of Papiſts, Quakers and Bourignianiſts. - - 123
III. Of Schiſm, and Prelacy, and of the Laws and Acts for preventing Innovations and Errors. 128
IV. Of Witches and Charmers 135
V. Of Blaſphemy, Curſing, profane Swearing and Lottery. 139
VI. Of the Profanation of the Sabbath. Of not obſerving Faſt and Thankſgiving Days. Of Withdrawers from, and Diſturbers of the Public Worſhip and obſervers of Superſtitious days - - 140